U. S. Department of Agriculture
Natural Resources Conservation Service
Portland, Oregon

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Forestry Technical Note No. 1 (Rev)

OREGON'S FOREST PRACTICE RULES
July 2008

This notice updates Technical Note 1 which includes Forest Practice Rules that forestland owners must follow. These rules are intended to protect soil, water and forest resources including fish and wildlife habitat. Landowners must notify the Oregon Department of Forestry (ODF) at least 15 days prior to commencing with any of the following activities:

- Timber Harvesting
- Road Construction
- Site Preparation
- Chemical Application
- Land Clearing
- Slash Treatment
- Precommercial Thinning
- Tree Planting
- Cutting of Firewood

Blank notification forms are available at the local ODF office.

When planning conservation practices with forest landowners, always refer to the published rules and advise the landowner to contact their local ODF stewardship forester before implementing any practice.

Oregon Department of Forestry
Forest Practice Administrative Rules and Forest Practices Act

CHAPTER 629
Forest Practices Administration

July 2008

"STEWARDSHIP IN FORESTRY"

This publication includes the text of the Forest Practices Act and the Forest Practice Administrative Rules as they exist on July 1, 2008.

Divisions 670 through 680 of the forest practice rules are not included in this publication, but are available as separate publications upon request. The rules in these divisions address civil penalties, appeals from orders of the State Forester, hearings procedure, stay of operations, access to notifications and written plans, regional forest practice committees, and the resource site inventory and protection process.

The Secretary of State publishes the official administrative rules.

The rules and statutes are also available on the Oregon Department of Forestry's website at: http://egov.oregon.gov/ODF/ as well as the Oregon Secretary of State's website at http://arcweb.sos.state.or.us/rules/alpha_index.html. See Department of Forestry, Chapter 629, Division 600-680, and the Oregon State Legislature at http://www.leg.state.or.us/ors/home.htm. See Chapter 527.

Rule and statutory language changes made since the January 2006 publication are indicated by underlined text and are listed below.

Changes:

The following rules were amended or adopted with effective dates in 2007. They remain underlined for this edition of the rules:

OAR 629-600-0100(39) Effective January 8, 2007.

OAR 629-635-0200 Effective October 1, 2007.

OAR 629-640-0110 Effective January 8, 2007.

OAR 629-640-0105 Effective January 8, 2007.

OAR 629-623-0400 was amended and 629-623-0500 was suspended through the temporary rule process. The changes are effective July 18, 2008 through January 13, 2008, or until rescinded by permanent rule, whichever comes first.

OAR 629-635-0100 and 629-635-0110 were amended and became effective October 31, 2006, but the changes were inadvertently omitted in the January 2007 publication.

OAR 629-640-0210 Effective October 1, 2007. Applicable July 1, 2008.

The following statutes were amended during the 2007 regular and 2008 special legislative sessions:

ORS 527.670, 527.687, and 527.755 Effective January 1, 2008.

ORS 527.736 Effective March 3, 2008.

The index for the administrative rules is on the inside cover page. The index for the Forest Practices Act is on page 65.

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DIVISION 600
DEFINITIONS

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 exclosures.

(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) **"Channel"** is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.

(10) **"Chemicals"** means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliants, plant desiccants, and plant regulators, as defined in ORS 634.006 (8); fertilizers, as defined in ORS 633.311; petroleum products used as carriers; and chemical application adjuvants, such as surfactants, drift control additives, anti-foam agents, wetting agents, and spreading agents.

(11) **"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 barters or exchanges forest products for goods or services. This does not include firewood cutting or timber milling for personal use.

(12) **"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.

(13) **"Conflict"** means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.

(14) **"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.

(15) **"Department"** means the Oregon Department of Forestry.

(16) **"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.

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

(18) **"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.

(19) **"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.

(20) **"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.

(21) **"Filling"** means the deposit by artificial means of any materials, organic or inorganic.

(22) **"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.

(23) **"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.

(24) **"Foraging area"** means an area (usually a body of water) where bald eagles concentrate their hunting activities.

(25) **"Foraging perch"** means a tree or other structure that overlooks a portion of a foraging area and is habitually used by bald eagles as a vantage point while hunting.

(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) **"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.

(28) **"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.

(29) **"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.

(30) "**High landslide hazard location"** means a specific site that is subject to initiation of a shallow, rapidly moving landslide.

(31) **"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.

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

(33) **"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.

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

(35) **"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.

(36) **"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 (82) of this rule.

(37) **"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.

(38) **"Large lake"** means a lake greater than eight acres in size.

(39) **"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 *A Guide to Placing Large Wood in Streams*, Oregon Department of Forestry and Oregon Department of Fish and Wildlife, May 1995.

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

(41) **"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.

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

(43) **"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.

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

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

(46) **"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.

(47) **"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.

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

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

(50) **"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.

(51) **"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.

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

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

(54) **"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.

(55) **"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, roost trees, or foraging perch 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 ORS 527.700(3), "resource site" is defined in OAR 629-680-0020.

(56) **"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.

(57) **"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.

(58) **"Roosting site"** means a site where birds communally rest at night and which is unique for that purpose.

(59) **"Roost tree"** is a tree within a roosting site that is used for night time roosting.

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

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

(62) **"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.

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

(64) **Significant wetlands"** means those wetland types listed in OAR 629-680-0310, that require site specific protection.

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

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

(67) **"Staging tree"** is a tree within the vicinity of a roosting site that is used for perching by bald eagles before entering the roost.

(68) **"Stream"** means a channel, such as a river or creek, that 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 (82) of this rule.

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

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

(71) **"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.

(72) **"Temporal exception"** means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.

(73) **"Temporal protection"** means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.

(74) **"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.

(75) **"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.

(76) **"Type D stream"** means a stream that has domestic water use, but no fish use.

(77) **"Type F stream"** means a stream with fish use, or both fish use and domestic water use.

(78) **"Type N stream"** means a stream with neither fish use nor domestic water use.

(79) **"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), ORS 527.740 and 527.750 (harvest type 3 size limitation), and other forest practice rules.

(80) **"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.

(81) **"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.

(82) **"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.

(83) **"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.

(84) **"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 (82) of this rule.

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

DIVISION 605
PLANNING FOREST OPERATIONS

629-605-0100
Compliance

(1) The operator, landowner, or timber owner shall comply with the practices described in the forest practice statutes and rules unless approval has been obtained from the State Forester for a plan for an alternate practice which is designed to result in the same effect or to meet the same purpose or provide equal or better results as those practices described in statute or administrative rule.

(2) The State Forester may approve a plan for an alternate practice to waive or modify forest practice rules when:
   - (a) The State Forester determines that a federal or state agency, a college or university, or a private landowner has submitted an application to the State Forester for a bona fide research project involving activities not in accordance with the rules; or
   - (b) The State Forester determines that waiving or modifying a specific practice will result in less environmental damage than if the practice is applied; or
   - (c) After consulting with the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester determines that waiving or modifying a specific practice will improve soil, water quality, fish habitat, or wildlife habitat; or
   - (d) The State Forester determines that the alternate practice is necessary to provide for public safety or to accomplish a land use change.

(3) When the State Forester's approval does not follow the written recommendations of the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester shall maintain a written explanation of the reasons for approving the alternate practices.

(4) The State Forester may approve a plan for an alternate practice to waive or modify rules for resource sites identified in OAR 629-680-0100 (Threatened or Endangered Fish and Wildlife Species), OAR 629-680-0200 (Sensitive Bird Nesting, Roosting and Watering Sites), 629-680-0300 (Significant Wetlands), or 629-680-0400 (Biological Sites) when:
   - (a) The county has an adopted program under OAR 660-016-0005 and 660-016-0010 that has evaluated the resource sites; and
   - (b) Applying the forest practice rules for the identified resource sites would regulate or prevent operations, or uses, allowed under the acknowledged county comprehensive plan.

629-605-0105
Notice of Federal Endangered Species Act

Compliance with the forest practices rules does not substitute for or ensure compliance with the federal Endangered Species Act. Nothing in these rules imposes any state requirement to comply with the federal Endangered Species Act. Landowners and operators are advised that federal law prohibits a person from taking certain threatened or endangered species which are protected under the Endangered Species Act.

629-605-0110
Annual Review

The State Forester shall, at least once each year, meet with other state agencies concerned with the forest environment to review the Forest Practice Rules relative to sufficiency. The State Forester shall then report to the

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Board of Forestry a summary of such meeting or meetings together with recommendations for amendments to rules, new rules, or repeal of rules.

629-605-0120
Consultation
Department personnel shall consult with personnel of other state agencies concerned with the forest environment situations where expertise from such agencies is desirable or necessary.

629-605-0130
Compliance with the Rules and Regulations of the Department of Environmental Quality
Each operation, as defined by ORS 527.620, shall be conducted in full compliance with the rules and regulations of the Department of Environmental Quality relating to air and water pollution control. In addition to all other remedies, any violation thereof shall be subject to all remedies and sanctions available by law, rule, or regulation to the Department of Environmental Quality.

629-605-0140
Notification to the State Forester - Types of Operations
Under the provisions of ORS 527.670:

(1) Notification to the State Forester shall be given for the following types of operations:
- (a) Harvesting of forest tree species including, but not limited to, felling, bucking, yarding, decking, loading or hauling.
- (b) Construction, reconstruction and improvement of roads, including reconstruction or replacement of crossing structures on any streams.
- (c) Site preparation for reforestation involving clearing or the use of heavy machinery.
- (d) Application of chemicals.
- (e) Clearing forestland for conversion to any non-forest use.
- (f) Disposal or treatment of slash.
- (g) Pre-commercial thinning.
- (h) Cutting of firewood, when the firewood will be sold or used for barter.
- (i) Surface mining.

(2) Notification to the State Forester shall not be required for the following types of activities, which may or may not be operations:
- (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) Routine road maintenance, such as grading, ditch cleaning, culvert cleaning, cross drain installation that is not in a stream, or rocking.
- (c) Tree planting or tree seed applications, except when trees or seeds are treated with rodenticides.
- (d) Cutting of firewood, when the firewood will not be sold or used for barter.
- (e) Harvesting or collection of minor forest products, such as boughs, cones and hardwood burls.
- (f) Road reconstruction of an emergency nature where delay for notification procedures presents a greater potential for resource damage than the operation. Within 48 hours after starting an emergency road reconstruction operation, the operator shall contact the State Forester and report the operation. When asked by the State Forester, the operator shall be able to demonstrate that an emergency actually existed.
- (g) 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.
- (h) 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.
- (i) The establishment, management or harvest of ornamental, street, or park trees within an urbanized area, as that term is defined in ORS 221.010.
- (j) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.

(k) 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.

(l) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.

(3) Exemption from notification of certain types of operations does not relieve the operator's responsibility for complying with the applicable forest practice rules.

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 ORS 527.670(10) for operations requiring an written plan under ORS 527.670(3)(a) and (b). 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.

629-605-0160

Forest Practices Regions

The state is divided into three regions to better achieve the purposes of the forest practice rules. These regions are:

(1) Eastern Oregon Region Boundary: All land east of the summit of the Oregon Cascade Range as described by the following boundary: Beginning at a point on the Columbia River near the junction of Interstate 84 and

State Highway 35, thence southerly along State Highway 35 to the north line of Section 5, T2S-R10E; thence east to the NE corner Section 5; thence southeasterly approximately 1.5 miles to a point of intersection with Forest Road No. 1720 in Section 9, T2S-R10E; thence easterly along said road and along Forest Road No. 44 to the east line of Section 12, T2S-R10E; thence southerly along the western boundaries of Wasco, Jefferson, Deschutes, and Klamath Counties to the southern boundary of Oregon.

(2) Northwest Oregon Region Boundary: All land west of the summit of the Oregon Cascade range as described in the Eastern Oregon Region boundary, north of the south boundary of Lane County.

(3) Southwest Oregon Region Boundary: All land west of the summit of the Cascade Range as described in the Eastern Oregon Region Boundary; south of the south boundary of Lane County.

629-605-0170
Statutory Written Plans

(1) Operators must submit to the State Forester a written plan as required by ORS 527.670(3) before conducting any operations requiring notification under OAR 629-605-0140, which are within:
   (a) 100 feet of a stream classified as Type F or Type D. Written plans for Type F and Type D streams are further described in OAR 629-635-0130.
   (b) 300 feet of 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."
   (c) 300 feet of any resource site identified in OAR 629-665-0100 (Sensitive Bird Nesting, Roosting and Watering Resource Sites on Forestlands), 629-665-0200 (Threatened and Endangered Species that use Resource Sites on Forestlands), or 629-645-0000 (Significant Wetlands).
   (d) 300 feet of any 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.

(2) The State Forester shall notify the operator of the presence of one of the sites listed in section (1) of this rule and the requirement of the written plan at any time the State Forester determines the presence of the above sites.

(3) Written plans required under section (1) of this rule shall be subject to the hearings provisions of ORS 527.700(3) (Appeals from orders of State Forester hearings procedure; stay of operation); and shall be subject to the provisions of ORS 527.670(10), (11) and (12) (Commencement of operations; when notice and written plan required; appeal of plan) prescribing certain waiting periods and procedures.

Non-Statutory Written Plans

(4) Unless waived by the State Forester, the operator must submit a written plan as required by ORS 527.670(2) and the rules listed below, which shall not be subject to the provisions of ORS 527.700(3) or 527.670(10), (11) and (12).
   (a) 629-605-0190(1) - Operating near or within sites that are listed in the “Cooperative Agreement Between the Board of Forestry and the Fish and Wildlife Commission, March 28, 1984” or sites designated by the State Forester;
   (b) 629-605-0190(2) - Habitat sites of any wildlife or aquatic species classified by the Department of Fish and Wildlife as threatened or endangered;
   (c) 629-623-0700(1) - Conducting timber harvesting or road construction operations with intermediate or substantial downslope public safety risk;
   (d) 629-623-0700(2) - Constructing a stream crossing fill over a debris torrent-prone stream with intermediate or substantial downslope public safety risk;
   (e) 629-623-0700(3) - Locating a waste-fill area within a drainage containing debris torrent-prone streams with intermediate or substantial downslope public safety risk;
   (f) 629-625-0100(2)(a) - Constructing a road where there is an apparent risk of road-generated materials entering waters of the state from direct placement, rolling, falling, blasting, landslide or debris flow;
   (g) 629-625-0100(2)(c) - Constructing a road within the riparian management area of a medium or large Type N stream;
   (h) 629-625-0100(3) - Constructing a road on high landslide hazard locations;
   (i) 629-625-0100(4) - Placing woody debris or boulders in the stream channel of a Type N stream for stream enhancement;
   (j) 629-625-0320(1)(b)(B) - Constructing a permanent stream crossing fill over 15 feet deep in a Type N stream;
   (k) 629-630-0200(3) - Locating a landing within the riparian management area of a medium or large Type N stream;

(l) 629-630-0700(3) - Yarding across streams classified as medium or large Type N;
(m) 629-630-0800(4)(c) - Constructing a temporary stream crossing fill over 8 feet deep in a Type N stream;
(n) 629-635-0130(1)(c) - Operating within 100 feet of a large lake;
(o) 629-660-0050(1) - Removing beaver dams or other natural obstructions located farther than 25 feet from a culvert in a Type N stream;
(p) 629-665-0020(2) - Operating near a resource site requiring special protection; and
(q) 629-665-0210(1) - Operating near a Northern Spotted Owl resource site.

(5) If an operator, timber owner or landowner is required to submit a written plan to the State Forester under subsection (4) 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.

Written Plan Content Required for All Written Plans

(6) 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.

(7) 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.

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

629-605-0173
Plans for an Alternate Practice

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

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

(3) Plans for alternate practices proposed as part of a written plan required by ORS 527.670(3) shall be subject to the hearings provisions of ORS 527.700(3) (Appeals from orders of State Forester hearings procedure;

stay of operation); and shall be subject to the provisions of ORS 527.670(10), (11) and (12) (Commencement of operations; when notice and written plan required; appeal of plan) prescribing certain waiting periods and procedures.

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

(5) The following rules require a plan for an alternate practice to be submitted and approved by the State Forester prior to commencing the practice or operation:

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

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

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

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

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

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

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

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

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

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

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

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

(m) 629-610-0050(2) – Utilizing more than 20% hardwood stocking when an operation results in a reforestation requirement;

(n) 629-610-0060(1) – Utilizing non-native tree species when an operation results in a reforestation requirement;

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

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

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

(r) 629-620-0400(7)(d) – Modifying the protection requirements for aerial application of fungicides;

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

(t) 629-640-0100(13) – Modifying the retention requirements in a Type F RMA for the removal of roadside trees which pose a safety hazard;

(u) 629-640-0200(14) – Modifying the retention requirements in a Type D or N RMA for the removal of roadside trees which pose a safety hazard;

(v) 629-640-0400(1)(a) – Utilizing site specific vegetation retention prescriptions for streams and riparian management areas;

(w) 629-645-0020(1) – Utilizing site specific vegetation retention prescriptions for significant wetlands;

(x) 629-645-0050(3) – Modifying the retention requirements for significant wetlands for reasons of forest health;

(y) 629-650-0040(3) – Modifying the retention requirements for lakes for reasons of forest health;

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

(aa) 629-665-0110(3) – Structural replacement of an osprey site;

(bb) 629-665-0110(4) – Temporal exceptions near an osprey site;
(cc) 629-665-0120(3) – Structural exceptions of a great blue heron site;
(dd) 629-665-0120(5) – Temporal exceptions near a great blue heron site.

629-605-0175
Harvest Type 3 Units Exceeding 120 Acres

(1) The purpose of this rule is to describe the process that operators shall follow to gain approval of a plan for an alternate practice for a harvest type 3 unit that is between 120 and 240 acres in size.
(2) Operators must obtain written approval of a plan for an alternate practice from the State Forester before conducting operations that result in a single harvest type 3 unit, or combinations of harvest type 3 units, that exceed the contiguous 120 acre limit on a single ownership.
(3) For each unit on which a harvest type 3 is proposed to exceed the contiguous 120 acre limit, the plan for an alternate practice shall:
  (a) Describe the planned harvest including, but not limited to, the elements of a written plan listed in OAR 629-605-0170;
  (b) Include a detailed map of the planned harvest that shows the specific unit boundaries; and
  (c) Demonstrate that the larger harvest size will result in increased protection of, or reduced adverse impact on, any or all of the resources and values protected by the Oregon Forest Practices Act. For the purposes of this rule, resources and values includes:
    (A) Air quality, water resources, soil productivity, and fish and wildlife resources as described in ORS 527.710(2);
    (B) The resource sites needing protection as listed in ORS 527.710(3);
    (C) Scenic resources within visually sensitive corridors as provided in ORS 527.755; and
    (D) Public safety related to landslides.
(4) The State Forester shall review the operator's compliance with the Oregon Forest Practices Act and deny approval of the plan for an alternate practice submitted under this rule when the operator has:
  (a) Received citations for violating a forest practice rule or statute within the past year; or
  (b) Failed to comply with an order to cease further violation, an order to repair damage, or an order to correct an unsatisfactory condition under ORS 527.680(2).
(5) Plans for an alternate practice submitted under this rule shall not be subject to appeal under ORS 527.700(3).
(6) Single harvest type 3 units or combinations of harvest type 3 units may not exceed 240 contiguous acres on a single ownership, except when the units have been reforested as described in ORS 527.750(1)(a), (b) and (c).
(7) The harvest type 3 acreage limitations do not apply for conversions or disasters described in ORS 527.740(4) when the operator obtains approval from the State Forester of a plan for an alternate practice before conducting operations.

629-605-0180
Interim Process for Protecting Sensitive Resource Sites Requiring Written Plans

Protection practices for sites requiring written plans under OAR 629-605-0170(1)(b) or (d) shall be determined for each site as follows:
(1) The State Forester shall notify the operator and landowner of the presence of a site requiring a written plan, and request their input into the decision making process.
(2) The State Forester shall, when practical, inspect the proposed operation with the landowner or landowner's representative, the operator, and the appropriate representative of the Department of Fish and Wildlife. The State Forester shall then determine if the proposed forest practice is in conflict with the protection of the sensitive resource site.
(3) If planned forest practices are determined to conflict with protection of the sensitive resource site, the written plan must describe reasonable measures sufficient to resolve the conflict in favor of the resource site. Reasonable measures to resolve the conflict in favor of the resource site may include but are not limited to preparing and implementing a habitat management plan, obtaining approval of a plan for an alternate practice, limiting the timing of forest practices, redesigning the proposed practices in favor of site protection and excluding the forest activities outright.
(4) If planned forest practices are determined not to conflict with protection of the sensitive resource site, the written plan shall describe how the operation will be conducted in compliance with existing forest practice rules. No additional protection measures shall be required.

629-605-0190
Written Plans for Operations Near Critical, Threatened, or Endangered Wildlife Habitat Sites
Operators must submit a written plan to the State Forester before operating near or within:
(1) Critical wildlife or aquatic habitat sites that are listed in a 1984 cooperative agreement between the Board of Forestry and the Fish and Wildlife Commission or sites designated by the State Forester; or
(2) Habitat sites of any wildlife or aquatic species classified by the Department of Fish and Wildlife as threatened or endangered.

629-605-0200
Compliance with Statutory Requirements
(1) In addition to all other requirements of administrative rule promulgated under the Forest Practices Act, operators, landowners and timber owners who conduct forest operations shall comply with the requirements in:
  (a) ORS 527.740 (Harvest type 3 unit limitations);
  (b) ORS 527.750 (Exceeding harvest type 3 size limitations);
  (c) ORS 527.755 (Scenic highways and visually sensitive corridors); and
  (d) ORS 527.676 (Live and dead wood retention in harvest type 2 and 3 units greater than 25 acres).
(2) Failure to comply with requirements in section (1) of this rule may be subject to any of the enforcement mechanisms provided in the Oregon Forest Practices Act under ORS 527.680, 527.690, 527.990 or 527.992.

629-605-0210
Harvest Type 3 Units within Single Ownerships
(1) For the purposes of ORS 527.740 and this rule, "single ownership" as defined in ORS 527.620, shall be interpreted broadly to prohibit manipulation of ownership entities or property transfers intended to avoid the provisions of ORS 527.740, restricting the size of harvest type 3 units, as defined by ORS 527.620. "Single ownership" shall not be interpreted to restrict lawful operations on bona fide separate ownerships.
(2) Nothing in ORS 527.740 is intended to restrict the location of a harvest type 3 unit or harvest type 3 unit acreage of one landowner based on the harvest type 3 unit of a wholly separate ownership.

629-605-0220
Judicial Determinations of Rule Validity
It is the intent of the Board that if any section of a rule is declared invalid or is remanded by the Court of Appeals under ORS 183.400, the remaining sections of the rule will remain valid.

629-605-0400
Forest Activity Safety
Compliance with worker safety regulations is essential for ensuring the safety of operators and their employees. Regulation of forest practices must be achieved in a manner which allows operators to comply with applicable federal and state safety requirements. In administering the forest practice rules to meet the resource protection goals, especially requirements related to working near snags, residual green trees and unstable material, the State Forester shall use appropriate discretion.

629-605-0500
Modification of Requirements for Forest Health and Public Safety
Protection requirements for streams, lakes, wetlands and riparian management areas may be modified by approval of a plan for an alternate practice by the State Forester for reasons of forest health or because of hazards to public safety or property. Hazards to public safety or property include hazards to river navigation and hazards to improvements such as roads, bridges, culverts, or buildings. Forest health concerns include fire, insect infestations, disease epidemics, or other catastrophic events not otherwise addressed in OAR 629-640-0300. Such modifications of protection requirements should prevent, reduce or alleviate the forest health conflict or hazard while meeting the intent of the protection goals as much as possible.

DIVISION 610
FOREST PRACTICES REFORESTATION RULES

629-610-0000
Purpose

(1) Timely reforestation of forestland following operations that reduce tree stocking below established standards is an essential factor in assuring continuous growing and harvesting of forest tree species, considering landowner objectives and consistent with the sound management of timber and other forest resources. Reforestation or other forms of revegetation are also important for the continued productivity and stabilization of soils exposed as a result of operations.

(2) OAR 629-610-0000 through 629-610-0090 shall be known as the reforestation rules.

(3) The purpose of the reforestation rules is to establish standards to ensure the timely replacement and maintenance of free to grow forest tree cover following forest operations at or above stocking levels that will use the tree growth potential of forestlands in Oregon.

(4) The reforestation rules are designed to:
- (a) Define forestland subject to reforestation requirements;
- (b) Describe the conditions under which reforestation shall be required;
- (c) Specify the minimum number of trees per acre;
- (d) Specify the maximum time period allowed for establishment of such trees after an operation reduces stocking;
- (e) Describe the acceptable species for reforestation;
- (f) Describe the conditions under which revegetation shall be required in lieu of reforestation; and
- (g) Specify the conditions under which an exemption from the reforestation requirements may be approved.

(5) Except as described below, the reforestation rules shall become effective on January 1, 1995 and shall be applied as follows:
- (a) Operations completed after January 1, 1995 must comply with the reforestation rules;
- (b) Except as provided in subsection (c) operations completed before January 1, 1995 must comply with the applicable reforestation requirements of ORS 527.745 and OAR 629-024-0400 to 0404, 629-024-0500 to 0503, and 629-024-0600 to 0604 as they existed on September 6, 1994;
- (c) Landowners subject to subsection (b) may request to have the reforestation rules apply to an operation at any time following January 1, 1995. The State Forester shall approve such requests so long as the landowner will fully apply the reforestation rules on the operation.

629-610-0010
Forestlands Suitable for Reforestation

(1) Any forestland which is capable of annual wood production of at least 20 cubic feet per acre at culmination of mean annual increment (Cubic Foot Site Class VI or better) shall be subject to the requirements of the reforestation rules.

(2) Potential site productivity is determined directly by tree growth and stocking measurements throughout the operation area or determined indirectly using applicable USDA Natural Resources Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue western Oregon site class maps, or other information determined by the State Forester to be of comparable quality.

629-610-0020
Reforestation Stocking Standards

(1) The landowner shall increase tree stocking to a level that meets the applicable productivity-based stocking standards described in sections (4), (5) and (6) of this rule within the time limits established by OAR 629-610-0040 whenever post-operation free to grow tree stocking in all or a portion of the operation area is below the applicable stocking standards and:
- (a) Trees or snags of acceptable species are harvested; or
- (b) Free to grow tree stocking is reduced as a result of the operation.

(2) Reforestation is not required on those portions of the operation area:
- (a) Where adequate free to grow tree stocking remains after the completion of the operation;
- (b) That are not disturbed by operation activities; or
- (c) On soils or sites not meeting the minimum productivity requirements of OAR 629-610-0010.

(3) The State Forester shall approve a plan for an alternate practice to waive or modify the reforestation requirements following a stand improvement operation such as a precommercial thinning, commercial thinning, overstory removal, or other partial cut harvest if the State Forester determines that the residual stand

conditions after such an operation will result in enhanced long-term tree growth and there is a high probability the purpose of the reforestation rules will be achieved.

(4) For Cubic Foot Site Class I, II and III forestlands (capable of producing at least 120 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
  (a) 200 free to grow seedlings per acre; or
  (b) 120 free to grow saplings and poles per acre; or
  (c) 80 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or
  (d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.

(5) For Cubic Foot Site Class IV and V forestlands (capable of producing between 50 and 119 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
  (a) 125 free to grow seedlings per acre; or
  (b) 75 free to grow saplings and poles per acre; or
  (c) 50 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or
  (d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.

(6) For Cubic Foot Site Class VI forestlands (capable of producing between 20 and 49 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
  (a) 100 or more free to grow seedlings per acre; or
  (b) 60 free to grow saplings and poles per acre; or
  (c) 40 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or
  (d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.

(7) In both even-aged and uneven-aged stands, the stocking of residual seedlings, saplings and poles, and larger trees shall be weighted to determine stand stocking and potential reforestation requirements. For this purpose, seedlings, saplings and poles, and trees 11-inches DBH and larger are proportionally equivalent in the following ratios: 100 free to grow seedlings are equivalent to 60 free to grow saplings and poles, which are equivalent to 40 square feet of basal area of free to grow trees 11-inches DBH and larger.

(8) Live conifer trees 11-inches DBH and larger left standing in harvested areas to meet the green tree and snag retention requirements of Section 5, Chapter 919, Oregon Laws 1991 shall be counted towards meeting the tree stocking standards if the trees are free to grow.

(9) For the purposes of determining compliance with the tree stocking requirements of the reforestation rules, tree stocking in riparian management areas within an operation area will be considered separately from stocking in the rest of the operation area.

(10) Landowners may submit plans for alternate practices that do not conform to the reforestation stocking levels established under these rules. A plan for alternate practices may be approved if the State Forester determines that there is a high probability that the purpose of the reforestation rules will be achieved, or if the plan carries out an authorized research project conducted by a public agency or educational institution.

629-610-0030
Natural Reforestation Methods

(1) Natural reforestation methods may be the best means to meet a variety of resource management objectives on some forestlands. Successful natural reforestation requires careful, flexible, site-specific pre-harvest planning and post-harvest monitoring.

(2) Reforestation may be difficult on Cubic Foot Site Class VI forestlands due to factors such as poor soils, harsh climate and competing vegetation. Reforestation in wetland areas may be difficult because of high water tables, competing vegetation, and inaccessibility. Careful reforestation planning is needed before operations are conducted on these sites. On Cubic Site Class VI forestlands and in wetlands, the use of silvicultural systems that promote natural regeneration and the retention of good quality residual trees after operations often have a higher probability of success than artificial reforestation methods.

(3) When an operation will result in a reforestation requirement and natural reforestation methods are planned, the landowner shall obtain written approval from the State Forester of a plan for an alternate practice which describes how reforestation will be accomplished. Information in the plan shall include:
  (a) A description of the seed sources that will be used;
  (b) Site preparation and vegetation competition control methods;
  (c) An estimate of the time needed to obtain an adequately stocked free to grow stand;
  (d) How progress towards natural reforestation will be evaluated; and
  (e) Alternative strategies that will be used if natural reforestation does not progress as planned.

(4) The plan for an alternate practice required in section (3) of this rule must be submitted no later than twelve months after tree stocking is reduced.
(5) Plans for an alternate practice for the use of natural reforestation methods shall be approved by the State Forester if a determination is made that the information provided accurately indicates there is a high probability the purpose of the reforestation rules will be achieved.

629-610-0040
Time Allowed for Reforestation

(1) The time period for compliance with the reforestation rules begins at the completion of the operation or 12 months after tree stocking has been reduced, whichever comes first.
(2) The landowner shall begin reforestation, including any necessary site preparation, within 12 months when reforestation is required.
(3) The landowner shall complete planting or seeding within 24 months unless a plan for an alternate practice for natural reforestation has been approved by the State Forester.
(4) By the end of the sixth full calendar year, the landowner shall have established a free to grow stand of trees which meets or exceeds the minimum stocking level required by OAR 629-610-0020.
(5) When natural reforestation methods are planned, the time limits for evidence of successful germination and for establishing a free to grow stand of trees which meets or exceeds the minimum stocking level required for the site shall be established in the approved plan for an alternate practice required for such methods.
(6) If reforestation cannot be accomplished within the specified time due to circumstances determined by the State Forester to be beyond the landowner's control, the State Forester shall extend the time to accomplish reforestation. Such circumstances may include, but are not limited to:
    (a) Nursery failure;
    (b) Inadequate seedling availability following salvage harvesting;
    (c) Extreme drought;
    (d) Insect infestation;
    (e) State smoke management restrictions on the burning of slash;
    (f) Wildfire or disease damage; or
    (g) Severe wildlife damage that could not be reasonably anticipated or controlled by the landowner.
(7) Extensions shall be made only upon a determination by the State Forester, based on timely written evidence provided by the landowner, that documents the landowner made reasonable attempts to comply with the reforestation requirements of the rules.
(8) Where an extension is granted for reforestation failure on land suitable for reforestation or in cases where a violation of the reforestation rules is cited, the landowner shall be required to take remedial action to achieve the required stocking standards within a time prescribed by the State Forester using recognized stand establishment methods.

629-610-0050
Acceptable Species for Reforestation and Residual Stand Stocking

(1) The State Forester shall determine if tree species are acceptable for artificial reforestation, natural reforestation, and as residual seedling, sapling and pole, or larger tree stocking based on all of the following criteria:
    (a) The species must be ecologically suited to the planting site;
    (b) The species must be capable of producing logs, fiber, or other wood products suitable in size and quality for the production of lumber, sheeting, pulp or other commercial forest products; and
    (c) The species must be marketable in the foreseeable future.
(2) Up to 20 percent of the site-based stocking levels required by 629-610-0020 may be met by using free to grow hardwood trees remaining after harvest if the trees are of species meeting the requirements of section (1) of this rule. An approved plan for an alternate practice is required before more than 20 percent of the required stocking may be met with residual, post-operation hardwood trees. Approval for the use of higher levels of hardwood residual stocking shall be based on a determination by the State Forester that there is a high probability the purpose of the reforestation rules will be achieved.
(3) Landowners are encouraged to reforest with a mixture of acceptable tree species, where appropriate, to reduce the risk of insect and disease losses and to promote stand diversity. Seedlings or seeds used for artificial reforestation should be from seed sources that are genetically adapted to the growing site.

629-610-0060
Use of Non-Native Tree Species

(1) When an operation will result in a reforestation requirement, and the landowner intends to plant or seed a tree species not native to the operation area, the landowner shall submit for approval a plan for an alternate practice to the State Forester which describes the tree species and how it will be used to meet the reforestation requirements. Information in the plan must include:
  (a) The tree species that will be used;
  (b) Evidence that the species is ecologically suited to the planting site;
  (c) Evidence that the species is capable of producing commercial forest products that will be marketable in the foreseeable future; and
  (d) Available research or field test findings which demonstrate the tree species has been successfully used in reforesting sites similar to the operation area.

(2) A plan for an alternate practice for the use of non-native tree species must be submitted for approval no later than twelve months after tree stocking is reduced and prior to planting. Plans for an alternate practice for the use of non-native tree species shall be approved by the State Forester if a determination is made that the information provided indicates there is a high probability the purpose of the reforestation rules will be achieved.

(3) For the purpose of this rule, any tree species that the State Forester determines has naturally existed and reproduced in the operation area or on similar sites shall be considered a native species.

629-610-0070
Suspension of the Reforestation Rules

(1) A landowner must submit to the State Forester a plan for an alternate practice to suspend the reforestation rules for the salvage or conversion of low value forest stands, to establish forest stands that are adequately stocked and free to grow.

(2) (a) The State Forester may approve the plan for an alternate practice when the harvest area is a conversion of underproducing forestland, or a salvage of forest stands where the merchantable trees are dead or dying due to wildfire, insects, diseases or other factors beyond the landowner's control and the State Forester determines:
    (A) The landowner is approved for funding from a forest incentive program, for which the State Forester is the technical advisor; and
    (B) The gross harvest revenues will not exceed the total costs of harvest, taxation, and reforestation.
  (b) For the purposes of this rule, "conversion of underproducing forestland" means an operation conducted on forestland subject to the reforestation requirements that does not currently support the minimum number of free to grow trees required with the objective of removing undesirable competing vegetation, including the incidental harvest of forest products, and establishing an adequately stocked, free to grow forest stand.

(3) To determine whether subsection (2)(a)(B) of this rule is met on a harvest operation that has not started, the State Forester shall make a field observation of the harvest area to determine:
  (a) The estimated merchantable volume;
  (b) The value of the merchantable volume by applying current local market values; and
  (c) The estimated harvest, taxation, and reforestation costs.

(4) When the State Forester is not able to determine the projected revenues and projected costs from the field observation described in subsection (3) of this rule, the State Forester may require the landowner to submit one or more of the following:
  (a) A third party estimate, by species and grade, of the volumes and values of logs to be delivered to the mill;
  (b) The projected costs of harvesting the forest products, including, but not limited to, harvest planning and administration, road construction and maintenance, felling and bucking, yarding, and loading and hauling;
  (c) The projected severance, harvest, and income taxes;
  (d) The projected costs of reforestation, including planning and administration, site preparation, trees, tree planting, tree protection, and moisture conservation; or
  (e) The projected costs of any other measures necessary to establish a forest stand in an adequately stocked and free to grow condition, as specified in the reforestation rules.

(5) To determine whether subsection (2)(a)(B) of this rule is met on a harvest operation that has started, but is not yet complete, the landowner shall submit to the State Forester one or more of the following:
  (a) The contracts executed to sell and harvest forest products, including but not limited to, all logging costs and receipts;
  (b) All the forest products scaling summaries showing gross and net volumes, by species and corresponding mill receipts showing payment; or
  (c) Any tax forms, records or reports submitted by the landowner that detail the gross and net volumes of forest products harvested, by species, plus logging and management costs used to determine harvest and severance taxes.
(6) Operations that are complete are not eligible for a suspension of the reforestation rules.
(7) The State Forester shall revoke the suspension of the reforestation rules at any time within 6 years of completing the operation if the landowner fails to establish a forest stand:
  (a) According to the specifications and time lines required under the applicable forest incentive program; or
  (b) In an adequately stocked and free to grow condition, as specified in the reforestation rules.

629-610-0080
Revegetation When Reforestation is not Required
When reforestation is not required or planned, the landowner shall ensure sufficient revegetation of the site to provide continuing soil productivity and stabilization within 12 months of the completion of the operation. Revegetation required by this rule may be planted or naturally established, and shall consist of trees, shrubs, grasses, or forbs suitable for soil stabilization and productivity protection. Landowners are encouraged to revegetate the operation area with native plants.

629-610-0090
Exemption from Reforestation for Land Uses Not Compatible with Forest Tree Cover
(1) A landowner, through a plan for an alternate practice, may request all, or portions of, an operation area be exempted from the reforestation requirements for the purpose of developing forestland for a use that is not compatible with the maintenance of forest tree cover. Approval of a plan for an alternate practice shall be obtained for such an exemption from the State Forester and shall only be granted for the smallest land area necessary to carry out the intended change in land use. Reforestation shall be required on the portions of operation areas not directly involved in the land use change.
(2) In seeking approval of the plan for an alternate practice, the landowner shall provide written documentation to the State Forester which establishes:
  (a) The specific portion of the operation area necessary for the proposed change in land use;
  (b) The intended change in land use and the incompatibility of the land use with forest tree cover;
  (c) The intended change in land use is authorized under local land use and zoning ordinances, and all necessary permits and approvals have been obtained, or will be obtained within 12 months following the reduction in tree stocking; and
  (d) The county assessor and local planning department have been notified in writing of the proposed change in land use.
(3) Reasonable progress towards the change in land use, as determined by the State Forester, shall be made within 12 months of the completion of the operation. Evidence of reasonable progress towards a change to an agricultural use may include activities such as stump removal, cultivation, fencing, and planting or seeding of crops or pasture. Evidence of reasonable progress towards a change to use involving building a structure may include activities such as stump removal, excavation, and construction.
(4) The change in land use shall be completed and continuously maintained within 24 months of the completion of the operation.
(5) If the change in land use cannot be accomplished within the specified time due to circumstances beyond the landowner's control, the State Forester shall extend the time to accomplish the change in land use. Such circumstances may include, but are not limited to, governmental delays in reviewing and processing permits and approvals, but do not include delays where a landowner is appealing the denial of a permit or approval if the State Forester does not have reason to believe the landowner will prevail on appeal. Extensions shall be made only upon a determination by the State Forester, based on written evidence provided by the landowner, that the landowner made reasonable attempts to comply. Landowners who need extensions are encouraged to contact the State Forester as soon as possible after the circumstances occur.

(6) The State Forester shall determine if the change in land use has been completed by:
  (a) The presence or absence of improvements necessary for use of the land for the intended purpose; and
  (b) Evidence of established and continuously maintained use of the land for the intended purpose.
(7) To remain exempt from the reforestation requirements the landowner shall continuously maintain the land in the new use until at least six calendar years following the completion of the operation.

DIVISION 611
AFFORESTATION INCENTIVE RULES

629-611-0000
Purpose

(1) The purpose of OAR 629-611-0000 to 629-611-0020 is to implement ORS 526.490, providing an incentive for landowners to convert parcels of idle land or land in other uses to commercial forest use.
(2) The provisions of ORS 526.490 shall be called the afforestation incentive and OAR 629-611-0000 to 629-611-0020 shall be known as the afforestation incentive rules.
(3) The afforestation incentive in these rules is a one-time exemption from most tree retention requirements in the forest practice rules as described in section (5) of this rule.
(4) For the purposes of the afforestation incentive rules, "planted" trees means those trees that a landowner establishes as an initial forest stand to qualify for the incentive and includes:
  (a) All trees the landowner plants or causes to be planted; and
  (b) All naturally established trees that are established within ten years prior to, or following, the date the parcel is certified as qualified for the incentive.
(5) Notwithstanding forest practice rule provisions prohibiting harvest of trees, the afforestation incentive allows landowners to harvest all planted trees on certified afforestation incentive parcels with the following limitations:
  (a) The afforestation incentive applies only to the land and timber located more than 20 feet from large or medium Type F, Type D, or Type N streams, or small Type F or Type D streams.
  (b) Any forest operations on such parcels must comply with all forest practice rules that require practices other than restrictions on harvesting the planted trees.
  (c) A planted tree that later becomes a key component of a specified resource site normally requiring protection under the forest practice rules may be harvested; however, the State Forester may temporarily prohibit harvesting during an annual critical period of use of the site, as provided in the specified resource site protection rules.
  (d) (For information only) Federal law prohibits a person from taking threatened or endangered species. Taking, under the federal law, may include significant alteration of habitat on any class of land ownership. Compliance with the afforestation incentive rules is not in lieu of compliance with any federal requirements related to the federal Endangered Species Act.

629-611-0010
Qualifications and Procedures

(1) To qualify for the afforestation incentive, a parcel or any separate portion thereof must meet all of the following requirements:
  (a) It must be at least five contiguous acres.
  (b) The State Forester must obtain evidence that, regardless of its use prior to July 1, 1972, from that date until the time of afforestation it has been idle or exclusively in uses other than commercial activities related to the growing and harvesting of forest tree species. Forestland in understocked condition, identified consistent with (c) below, may qualify for the incentive if the stocking was reduced or limited by causes other than a forest operation occurring after July 1, 1972.
  (c) No acre may be certified as part of an afforestation incentive parcel if, prior to the establishment of a well-stocked, free to grow stand of forest trees, the acre's stocking, if any, was 25 square feet of basal area or more.
  (d) Afforestation must have begun on the parcel on or after September 9, 1995, the date ORS 526.490 became effective.
(2) To gain certification of a parcel as eligible for the afforestation incentive, a landowner must request inspection by the State Forester within two to five years following stand establishment.

(3) A request for inspection and certification of a parcel shall be accompanied by the following:
   (a) A map that depicts the parcel or portion thereof in relation to public lands survey subdivisions and access roads for the purpose of locating and inspecting the parcel, and that will be sufficient to identify the parcel at the time of harvest;
   (b) Photographs documenting the condition of the parcel as idle land or land in other than adequately-stocked commercial forest use prior to stand establishment; and
   (c) Written permission of the owner to enter the property as necessary to inspect and determine whether the parcel qualifies for the afforestation incentive.
(4) To be certified eligible for the afforestation incentive, the parcel's afforestation must meet or exceed the reforestation rule standards for acceptable species, adequate stocking, and free to grow condition found in OAR Chapter 629 Division 610 of the forest practice rules. Pre-existing free to grow forest tree stocking may be counted toward meeting those standards.
(5) Landowners who qualify parcels for the afforestation incentive by meeting the requirements of sections (1) to (4) of this rule shall be issued a certificate by the State Forester describing the parcel and the exemption from harvest restrictions to which the landowner is entitled.
(6) The afforestation incentive is a one-time exemption for each individual parcel or portion thereof, applying only to planted trees established to initially certify each parcel. These trees constitute the parcel's first rotation stand for either even-aged or uneven-aged management. The certification date shall be considered the beginning of the first rotation so that, at the time of harvesting, no trees other than the planted trees shall be included in the exemption.
(7) To ensure recognition of the afforestation incentive at the time of harvest, many years after certification of a parcel, landowners are encouraged to record the certificate issued by the State Forester with the appropriate county clerk as specified under ORS 205.130.
(8) In order to exercise the exemption from tree harvesting restrictions under ORS 526.490(3), the landowner must present a record of the certificate to the State Forester whenever first rotation trees are to be harvested.

629-611-0020
Fee for Inspection and Certification
The State Forester shall charge a fee to persons requesting certification to offset the costs of inspecting parcels and preparing certificates. This fee shall be $50 per parcel plus $2 per acre for each acre in excess of five acres, to a maximum of $200 per parcel.

DIVISION 615
TREATMENT OF SLASH

629-615-0000
Purpose
(1) OAR 629-615-0000 to 0300 shall be known as the treatment of slash rules.
(2) For the purposes of these rules, treatment of slash is recognized as a necessary tool for the protection of reproduction and residual stands from the risk of fire, insects, and disease, to prepare the site for future productivity and to minimize the risk of material entering streams. Such treatment may employ the use of mechanical processes, fire, chemical or other means to minimize competitive vegetation and residue from harvesting operations.

629-615-0100
Maintenance of Productivity and Related Values
(1) Operators shall plan and conduct forest operations in a manner which will provide adequate consideration to treatment of slash to protect residual stands of timber and reproduction to optimize conditions for reforestation of forest tree species, to maintain productivity of forestland, to maintain forest health, and maintain air and water quality and fish and wildlife habitat.
(2) Operators shall dispose of or disperse unstable slash accumulations around landings to prevent their entry into streams.

629-615-0200
Mechanical Site Preparation Near Waters of the State
(1) When mechanical site preparation is necessary in riparian management areas or near waters of the state, operators shall conduct the operations in a way that sediment or debris does not enter waters of the state.

(2) When using mechanical site preparation, operators shall provide adequate distance between disturbed soils and waters of the state to filter sediment from run-off water.
(3) Operators shall not use mechanical site preparation in riparian management areas:
  (a) On slopes over 35 percent, with the exception of excavator-type equipment used during dry periods; or
  (b) On sites with evidence of surface or gully erosion; or
  (c) Where exposure or compaction of the subsoil is likely to occur.
(4) During mechanical site preparation, operators shall not place debris or soil in waters of the state or where it may enter waters of the state.

629-615-0250
Protection of Soil Productivity During Mechanical Site Preparation
On land clearing projects where mechanical methods are used, operators shall minimize compaction and movement of topsoil to protect soil productivity.

629-615-0300
Prescribed Burning
(1) Prescribed burning is a tool used to achieve reforestation, maintain forest health, improve wildlife habitat and reduce wildfire hazard. Prescribed burning is to be done consistent with protection of air and water quality, and fish and wildlife habitat. The purpose of this rule is to ensure that necessary prescribed burning is planned and managed to maximize benefits and minimize potential detrimental effects.
(2) When planning and conducting prescribed burning, operators shall:
  (a) Comply with the rules of Oregon's "Smoke Management Plan."
  (b) Adequately protect reproduction and residual timber, humus and soil surface.
  (c) Consider possible detrimental effects of prescribed burning upon riparian management areas, streams, lakes, wetlands, and water quality, and how these effects can be best minimized.
  (d) Lay out the unit and use harvesting methods that minimize detrimental effects to riparian management areas, streams, lakes, wetlands, and water quality during the prescribed burning operation.
  (e) Fell and yard the unit to minimize accumulations of slash in channels and within or adjacent to riparian management areas.
  (f) Minimize fire intensity and amount of area burned to that necessary to achieve reforestation, forest health, or hazard reduction needs.
(3) When burning within 100 feet of Type F and Type D streams, within 100 feet of large lakes, and within 300 feet of significant wetlands, operators shall describe in the written plan how detrimental effects will be minimized within riparian management areas; especially when burning on highly erosive soils, for example decomposed granite soils and slopes steeper than 60 percent.
(4) During prescribed burning operations, operators shall protect components such as live trees, snags, downed wood, and understory vegetation required to be retained by OAR 629-635-0310 through 629-650-0040. When the operator has taken reasonable precautions to protect the components, but some detrimental effects occur, the intent of the rule is met if the overall integrity of the riparian management area is maintained. Operators shall not salvage trees killed by prescribed fire in a riparian management area if the trees were retained for purposes of OAR 629-635-0310 through 629-655-0000.
(5) When the need for prescribed burning outweighs the benefits of protecting components required to be left within the riparian area, aquatic area and wetlands, protection requirements may be modified through a plan for an alternate practice. Approval of such a plan shall consider the environmental impacts and costs of alternative treatments.

DIVISION 620
CHEMICAL AND OTHER PETROLEUM PRODUCT RULES

629-620-0000
Purpose
(1) OAR 629-620-0000 through 629-620-0800 shall be known as the chemical and other petroleum product rules. In addition to the application of chemicals, operators should be aware that certain requirements of these rules also apply to the use of other petroleum products, such as fuel and lubricants, on any forest operation.
(2) Operators are encouraged to voluntarily use integrated pest and vegetation management processes. The use of pesticides is one of a variety of integrated pest management strategies that forest landowners may

implement to minimize the impact of forest pests in an environmentally and economically sound manner to meet site specific objectives. When properly used, pesticides and other chemicals can be effective tools in the growing and harvesting of forest tree species.

(3) The purpose of the forest practice chemical and other petroleum product rules is to establish requirements that will ensure:
   (a) Chemicals and other petroleum products used on forestland do not occur in the soil, air, or waters of the state in quantities that would be injurious to water quality or to the overall maintenance of terrestrial wildlife or aquatic life; and
   (b) The vegetative components of riparian management areas and sensitive resource sites receive protection on herbicide operations consistent with the purposes of the reforestation rules, the requirements of the sensitive resource site rules, and the vegetation retention goals of the water protection rules.

(4) All distances listed in the chemical and other petroleum product rules shall be measured horizontally.

(5) Operations involving the use of chemicals and other petroleum products on forestland are also subject to the pesticide control laws administered by the Department of Agriculture, hazardous waste laws administered by the Department of Environmental Quality, hazard communication rules administered by the Occupational Safety and Health Division, the water use laws administered by the Water Resources Department. Maximum contaminant levels in drinking water for certain pesticides are established by the Health Division.

629-620-0100
Preventing, Controlling, and Reporting Leaks and Spills of Chemicals and Other Petroleum Products

(1) The operator shall maintain equipment used for transportation, on-site storage, or application of chemicals in a leak proof condition. If there is evidence of chemical leakage, the operator shall suspend the further use of such equipment until the deficiency has been corrected.

(2) Operators shall take adequate precautions to prevent leaks or spills of other petroleum products, such as fuel, motor oil, and hydraulic fluid, from entering the waters of the state.

(3) Operators shall take immediate and appropriate action to stop and contain leaks or spills of chemicals and other petroleum products.

(4) The operator shall immediately report to the State Forester any chemical spills and other petroleum product spills resulting from the operation that enter, or may enter, the waters of the state. Such notification will not exempt the operator from any requirements of other local, state, and federal agencies to report chemical or other petroleum product spills.

629-620-0200
Protection of Water Quality During Mixing of Chemicals

(1) Whenever water is taken from any stream or water impoundment for use in the mixing of chemicals, the operator shall prevent chemicals from entering the waters of the state by taking at least the following precautions:
   (a) Providing an air gap or reservoir between the water source and the mixing tank; and
   (b) Using pumps, suction hoses, feed hoses, and check valves that are used only for water.

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

629-620-0300
Locations of Mixing, Transfer, and Staging Areas for Chemicals and Other Petroleum Products

(1) Operators shall conduct the following activities only in locations where spillage of chemicals or other petroleum products will not enter the waters of the state:
   (a) Mixing chemicals;
   (b) Transferring chemicals or other petroleum products between equipment or containers including, but not limited to, fueling of aircraft or heavy equipment;
   (c) Cleaning tanks or equipment used during chemical applications;
   (d) Landing and staging aircraft.

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

629-620-0400
Protection of the Waters of the State and Other Resources When Applying Chemicals

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

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

(3) Weather conditions such as temperature, relative humidity, wind speed, wind direction, atmospheric temperature inversions, and precipitation may strongly affect the deposition and drift of chemicals during aerial and pressurized, ground-based chemical applications. Operators shall apply chemicals only under weather conditions which will protect non-target forest resources and comply with the product label and the other sections of this rule.

(4) Except where the product label or sections (2), (6), or (7) apply more stringent requirements, when applying chemicals by aircraft, operators shall not directly apply chemicals within 60 feet of:
- (a) Significant wetlands;
- (b) The aquatic areas of Type F and Type D streams;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(5) Except where the product label or sections (2) or (6) apply more stringent requirements, when applying chemicals from the ground, operators shall not directly apply chemicals within 10 feet of:
- (a) Significant wetlands;
- (b) The aquatic areas of Type F and Type D streams;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(6) Operators shall not directly apply fertilizers within 100 feet of Type D streams and the domestic use portions of Type F streams. For other waters of the state, no untreated strips are required to be left by operators when applying fertilizers, except that operators shall not directly apply fertilizers to:
- (a) The aquatic areas of other Type F streams or to large and medium Type N streams;
- (b) Significant wetlands;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(7) (a) Except as allowed under subsections (d) and (e), operators shall not directly apply fungicides or non-biological insecticides by aircraft, within 300 feet of:
  - (A) Significant wetlands;
  - (B) The aquatic areas of Type F and Type D streams;
  - (C) The aquatic areas of large lakes;
  - (D) The aquatic areas of other lakes with fish use; or
  - (E) Other areas of standing open water larger than one-quarter acre at the time of the application.

(b) Operators shall not directly apply fungicides or non-biological insecticides by aircraft within 60 feet of the aquatic areas of Type N streams containing flowing water at the time of application.

(c) For the purpose of this rule, "biological insecticide" means any insecticide containing only naturally occurring active ingredients including, but not limited to, viruses, bacteria, semiochemicals (pheromones), or fungi.

(d) Plans for alternate practices that modify the requirements of subsections (a) and (b) may be approved by the State Forester. Approvals of such plans shall be based on a written finding by the State Forester determining that:
  - (A) Such a modification is essential to control a fungus or a population of an insect species to reduce damage to, and to better provide for, the overall maintenance of forest resources protected under the Forest Practices Act;
  - (B) The operational or weather condition constraints placed on the application by the plan for alternate practice, in addition to the requirements of the forest practice rules and the product label, will reduce the potential for the fungicide or non-biological insecticide to drift outside the operation area or to enter the waters of the state; or

(C) Adequate documentation has been submitted by the operator indicating the toxicity to humans, fish populations, or to aquatic invertebrate populations of the fungicide or non-biological insecticide to be applied is lower than the documented toxicity of the fungicide chlorothalonil or the non-biological insecticide carbaryl, as used in forestry prior to September 4, 1996.

(e) The requirements of sections (a) and (b) do not apply to pest eradication programs conducted on forestland by the Department of Agriculture.

(8) The operator shall make all aerial chemical applications parallel to the edge of the water when applying chemicals within 100 feet of:

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

629-620-0500
Disposal of Chemical Containers

Operators shall dispose of chemical containers in accordance with the Department of Environmental Quality's disposal requirements. Operators may apply flushing solution resulting from cleaning of chemical containers to the operation area.

629-620-0600
Daily Records of Chemical Applications

(1) Whenever pesticides are aerially applied or applied using a pressurized, ground-based, broadcast application system on forestland, the operator shall maintain a daily record of application operations which includes:

(a) The legal description of the location of the operation area actually treated with chemicals;
(b) The acreage actually treated with chemicals;
(c) Brand name or EPA registration number of the chemicals used, the carrier used, and the application rate;
(d) Date and time of application;
(e) Air temperature, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
(f) Relative humidity, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
(g) Wind velocity and direction, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
(h) The name of the person making the application, including the contractor's name and pilot's name when applied aerially, or the contractor's name and/or employee's name for ground application.

(2) Whenever pesticides are applied on forestland using methods other than those described in section (1) of this rule, the operator shall maintain a daily record of all information listed in subsections (a), (b), (c), (d), and (h) of section (1).

(3) Whenever fertilizers are applied on forestland, the operator shall maintain a record of all information listed in subsections (a), (b), (d), and (h) of section (1) of this rule and shall also record the application rate and the formulation used.

(4) The records required in sections (1), (2) and (3) of this rule shall be maintained by the operator for three years from the date of application and be made available at the request of the State Forester.

629-620-0700
Chemical and Other Petroleum Product Rules: Effectiveness Monitoring and Evaluation

(1) In cooperation with state agencies, landowners, and other interested parties, the department shall conduct monitoring to evaluate the effectiveness of the chemical and other petroleum product 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.

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

(3) The department 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.

629-620-0800
Notification of Community Water System Managers When Applying Chemicals

(1) The purpose of this rule is to ensure that community water system managers are appropriately notified of planned chemical operations so that they can coordinate their monitoring activities with planned operations.
(2) This rule applies to community water systems where the surface water drainage area upstream of their intake is 100 square miles or less. The State Forester shall maintain a list of community water systems for which notification is required. A community water system with a drainage area of more than 100 square miles upstream of its intake may request to be added to the list based upon its ability to conduct effective monitoring in the watershed. The list shall be available at department field offices where notifications are submitted.
(3) When chemicals will be aerially applied within 100 feet, or applied from the ground within 50 feet of domestic portions of Type F or Type D streams, and the water use is by a community water system as designated under section (2) of this rule, the operator shall notify the water system manager of a planned chemical operation at least 15 days before the operation commences.
(4) The operator shall provide the following additional information before commencing the operation if requested by the manager of the affected water system at the time of notification required in section (3) above:
    (a) The application technology that will be used;
    (b) Practices that will be followed to minimize drift toward the stream;
    (c) Any monitoring efforts that will be conducted by the landowner; and
    (d) The planned time schedule for the application.

DIVISION 623
SHALLOW, RAPIDLY MOVING LANDSLIDES AND PUBLIC SAFETY

629-623-0000
Purpose

(1) Shallow, rapidly moving landslides may be a public safety risk affected by forest operations. There is a high natural landslide hazard in certain locations. In the short term, forest practices regulations can reduce the risk to people who are present in locations prone to shallow, rapidly moving landslides. In the long term, effective protection of the public can only be achieved through the shared responsibilities of homeowners, road users, forestland owners, and state and local governments to reduce the number of persons living in or driving through locations prone to shallow, rapidly moving landslides during heavy rainfall periods.
(2) OAR 629-623-0000 through 629-623-0800 shall be known as the shallow, rapidly moving landslide and public safety rules.
(3) The purpose of the shallow, rapidly moving landslides and public safety rules is to reduce the risk of serious bodily injury or death caused by shallow, rapidly moving landslides directly related to forest practices. These rules consider the exposure of the public to these safety risks and include appropriate practices designed to reduce the occurrence, timing, or effects of shallow, rapidly moving landslides.
(4) These rules are based on the best scientific and monitoring information currently available. The department will continue to monitor factors associated with shallow, rapidly moving landslides and also review new research on this issue. The department will recommend rule changes if this new information suggests different forest practices may be appropriate.

629-623-0100
Screening for High Landslide Hazard Locations and Exposed Population

(1) The State Forester will use further review area maps and/or other information to screen proposed operations for high landslide hazard locations that may affect exposed populations. Operators are encouraged to acquire available maps and other information and to conduct their own public safety screening.
(2) Upon notification by the State Forester, operators shall identify portions of the operation that contain high landslide hazard locations and shall also identify structures and paved public roads within further review areas below the operation area.
(3) 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.

629-623-0200
Exposure Categories

(1) The State Forester will verify the information provided by operators in OAR 629-623-0100 and use this information to determine the exposure category for the operation.

(2) Exposure Category A includes habitable residences, schools, and other buildings where people are normally present during periods when wet season rain storms are common.

(3) Exposure Category B includes paved public roads averaging over 500 vehicles per day, as determined, if possible during periods when wet season rain storms are common.

(4) Exposure Category C includes barns, outbuildings, recreational dwellings not included in Exposure Category A, low-use public roads, and other constructed facilities where people are not usually present when wet season rain storms are common.

629-623-0250
Shallow, Rapidly Moving Landslide Impact Rating

(1) The State Forester will publish technical guidance for evaluating and rating shallow, rapidly moving landslide impact potential for any exposed population. Impact rating factors may include, but are not limited to: the location of the structure or road in relationship to the debris torrent-prone stream or steep slope; channel confinement; channel gradient; channel junction angles; and debris in the channel.

(2) Shallow, rapidly moving landslide impact potential is rated as unlikely, moderate, serious and in limited cases, extreme.

(3) The State Forester may require the landowner to submit a geotechnical determination of shallow, rapidly moving landslide impact rating for the proposed operation.

(4) The impact rating may include the potential for the failure of a structure in the direct path of a rapidly moving landslide resulting in a substantial risk of serious bodily injury or death to the exposed population below that structure.

(5) The State Forester will make the final impact rating.

629-623-0300
Public Safety Risk Levels

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

Substantial downslope public safety risk

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

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

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

Intermediate downslope public safety risk

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

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

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

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

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Low downslope public safety risk

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

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

Applicability of regulations and use of leave trees

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

(12) Leave trees required to comply with timber harvesting rules for shallow, rapidly moving landslides and public safety may also be used to comply with ORS 527.676 except those required to be retained in riparian management areas by OAR 629-640-0000 through 629-640-0500.

629-623-0400

Restriction of Timber Harvesting - Substantial and Intermediate Downslope Public Safety Risk

(1) Operators shall not remove trees from high landslide hazard locations with substantial or intermediate downslope public safety risk unless a geotechnical report demonstrates to the State Forester that any landslides that might occur will not be directly related to forest practices because of very deep soil or other site-specific conditions. Removal of dead or diseased trees or trees from sites that have already failed is allowed if the operator demonstrates to the State Forester that the operation results in no increased overall downslope public safety risk.

(2) Operators shall leave a sufficient number and arrangement of trees adjacent to high landslide hazard locations to reduce the likelihood of trees retained in these locations blowing down.

629-623-0450

Restriction of Road Construction - Substantial Downslope Public Safety Risk

(1) Operators shall not construct new roads on high landslide hazard locations or other very steep slopes with substantial downslope public safety risk.

(2) Operators may reconstruct existing roads in high landslide hazard locations when the written plan required by OAR 629-623-0700 incorporates site-specific practices as directed by a geotechnical specialist and demonstrates that road reconstruction will reduce landslide hazard.

629-623-0500 (SUSPENDED AWAITING PERMANENT CHANGES.)

629-623-0550

Road Construction - Intermediate Downslope Public Safety Risk

(1) When constructing roads on high landslide hazard locations or other very steep slopes with intermediate downslope public safety risk, operators shall follow site-specific practices as directed by a geotechnical specialist.

(2) In addition to the road construction and maintenance rules in OAR 629-625-0100 through 629-625-0440, written plans shall include:

  (a) An evaluation of cutslope stability that demonstrates major cutslope failure is very unlikely; and

  (b) A description of measures to be taken to prevent water from draining onto high landslide hazard locations.

629-623-0600

Protection Along Debris Torrent-Prone Streams

(1) The purpose of this rule is to reduce or eliminate woody debris loading, and to retain large standing trees in locations where they might slow debris torrent movement along debris torrent-prone streams with substantial or intermediate downslope public safety risk.

(2) During timber harvesting operations, operators shall fell and yard trees in a manner to minimize slash and other debris accumulations in debris torrent-prone stream channels where there is substantial or intermediate downslope public safety risk.

(3) Operators shall remove logging slash piles and continuous logging slash deposits from debris torrent-prone stream channels where there is substantial or intermediate downslope public safety risk.

(4) Operators shall leave, and during felling and yarding activity, protect large standing trees along the likely depositional reaches of debris torrent-prone streams, as determined by the State Forester, in locations where there is substantial or intermediate downslope public safety risk. Leave trees shall:

  (a) Be larger than 20 inches in diameter breast height;

(b) Be within 50 feet of the edge of the active channel along both sides of the stream;
(c) Be left for a distance of 300 feet or the depositional length of the channel, whichever is less, as measured from the beginning of the forested portion of the stream reach above the road or structure;
(d) Not include trees that pose a greater public safety risk because of windthrow or other risks as determined by the State Forester.

629-623-0700
Written Plans to Evaluate Public Safety Risk

(1) To allow evaluation of public safety risk and the appropriate methods for reducing this risk, operators shall submit a written plan for all timber harvesting or road construction operations with intermediate or substantial downslope public safety risk as described in OAR 629-623-0300. Written plans shall include:
(a) A determination of public safety risk (OAR 629-623-0300);
(b) A map showing those portion(s) of the operation containing high landslide hazard locations;
(c) The location of all existing and proposed new roads crossing high landslide hazard locations;
(d) A detailed road design for all new or reconstructed roads crossing high landslide hazard locations;
(e) The location of habitable structures (Exposure Category A) and paved public roads (Exposure Category B) below the operation and within further review areas;
(f) Locations where timber harvesting will not occur;
(g) Locations where partial cutting will occur and the specific silvicultural prescription; and
(h) Additional information related to the operation as requested by the State Forester.
(2) Operators shall submit a written plan for proposed stream crossing fills constructed across debris torrent-prone streams with substantial or intermediate downslope public safety risk.
(3) Operators shall submit a written plan for proposed waste fill areas within a drainage containing debris torrent-prone streams where there is substantial or intermediate downslope public safety risk.

629-623-0800
Hazard Mitigation and Risk Reduction Projects

(1) Completed landslide mitigation projects can be used to lower the shallow, rapidly moving landslide impact rating as described in OAR 629-623-0250.
(a) The landowners who own structures and are directly affected by the impact rating must agree to landslide mitigation.
(b) Structural measures designed and inspected by a geotechnical specialist are the preferred mitigation strategy.
(2) Landowners may remove trees on high landslide hazard locations above habitable structures or paved public roads where the public safety risk from trees blowing over is equal to or higher than the public safety risk from landslides. Supporting evidence for removing these trees must be included in the written plan required by OAR 629-623-0700.
(3) A homeowner may submit evidence in the form of a risk management plan to the State Forester to lower the exposure category (OAR 629-623-0200) from Exposure Category A to Exposure Category B. Risk management plans shall include:
(a) An evacuation plan that substantially reduces the risk to residents and visitors during periods when shallow, rapidly moving landslides may occur;
(b) A copy of the property title showing full disclosure of the elevated landslide hazard on that property, including a statement that it is the homeowner's responsibility to inform residents and visitors of the elevated landslide hazard and of the necessity to comply with the evacuation plan;
(c) Assumption by the homeowner of all liability for injury and property damage associated with shallow, rapidly moving landslides initiating within the operation; and
(d) The signatures of the homeowner and of a notary public.

DIVISION 625
FOREST ROADS
ROAD CONSTRUCTION AND MAINTENANCE RULES

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 629-625-0650 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 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) The road construction and maintenance rules shall apply to all forest practices regions unless otherwise indicated.

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 or Type D streams, lakes or significant wetlands; or

(c) Constructing roads in riparian management areas.

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

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.

(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) 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) 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 roads where practical. Where roads traverse land in another ownership and will adequately serve the operation, investigate options for using those roads before constructing new roads.

629-625-0300

Road Design

(1) The purpose of OARs 629-625-0300 through 629-625-0340 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.

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.

(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.

629-625-0320
Stream Crossing Structures

(1) Operators shall design and construct stream crossing structures (culverts, bridges and fords) to:
  (a) Minimize excavation of side slopes near the channel.
  (b) Minimize the volume of material in the fill.
    (A) Minimizing 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) Prevent erosion of the fill and channel.

(2) Operators shall design and construct stream crossings (culverts, bridges, and 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 the 50-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.

(3) 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 necessary to protect the structure;
  (c) Except for culvert cover, soil fill is not placed in the flood plain; and
  (d) 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.

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 based on the priority listed below. When there is a conflict between the requirements of sections (2) through (6) of this rule, the lowest numbered section takes precedence, and the later-numbered and conflicting section shall not be implemented.
(2) Operators shall not concentrate road drainage water into headwalls, slide areas, high landslide hazard locations, or steep erodible fillslopes.
(3) Operators shall not divert water from stream channels into roadside ditches.
(4) 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.
(5) Operators shall provide drainage when roads cross or expose springs, seeps, or wet areas.
(6) Operators shall provide a drainage system using grade reversals, surface sloping, ditches, culverts and/or waterbars as necessary to minimize development of gully erosion of the road prism or slopes below the road.

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.

629-625-0400
Road Construction

OARs 629-625-0400 through 629-625-0440 provide standards for disposal of waste materials, drainage, stream protection, and stabilization to protect water quality during and after road construction.

629-625-0410
Disposal of Waste Materials
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.

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.

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 or Type D streams, lakes, and significant wetlands.
(3) For all roads constructed or reconstructed operators shall install water crossing structures where needed to maintain the flow of water and passage of adult and juvenile fish between side channels or wetlands and main channels.
(4) Operators shall leave or re-establish areas of vegetation between roads and waters of the state to protect water quality.
(5) Operators shall remove temporary stream crossing structures promptly after use, and shall construct effective sediment barriers at approaches to channels.

629-625-0440
Stabilization
(1) Operators shall stabilize exposed material which is potentially unstable or erodible by use of seeding, mulching, riprapping, leaving light slashing, pull-back, or other effective means.
(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.

629-625-0500
Rock Pits and Quarries
(1) The development, use, and abandonment of rock pits or quarries which are located on forestland and used for forest management shall be conducted using practices which maintain stable slopes and protect water quality.
(2) Operators shall not locate quarry sites in channels.
(3) When using rock pits or quarries, operators shall prevent overburden, solid wastes, or petroleum products from entering waters of the state.
(4) Operators shall stabilize banks, headwalls, and other surfaces of quarries and rock pits to prevent surface erosion or landslides.
(5) When a quarry or rock pit is inactive or vacated, operators shall leave it in the conditions described in section (4) of this rule, shall remove from the forest all petroleum-related waste material associated with the operation; and shall dispose of all other debris so that such materials do not enter waters of the state.

629-625-0600
Road Maintenance
(1) The purpose of this rule is to protect water quality 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.

(3) 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 and the possibility of washouts.
(4) 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.
(5) 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.
(6) In the Northwest and Southwest Oregon Regions, 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.
(7) Operators shall place material removed from ditches in a stable location.
(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.
    (c) Other fish passage requirements under the authority of ORS 498.268 and 509.605 that are administered by other state agencies may be applicable to water crossing structures, including those constructed before September 1, 1994.
(9) 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.

629-625-0650
Vacating Forest Roads
(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.
(4) Damage which may occur from a vacated road, consistent with Sections (2) and (3) of the rule, will not be subject to remedy under the provisions of the Oregon Forest Practices Act.

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 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 or Type D streams as measured above and below the effects of the road.

DIVISION 630
HARVESTING

629-630-0000
Purpose
(1) 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.
(2) Harvesting operations result in a temporary disturbance to the forest environment.
(3) 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) OARs 629-630-0000 through 629-630-0800 shall be known as the harvesting rules.
(5) The harvesting rules shall apply to all forest practices regions unless otherwise indicated.

629-630-0100
Skidding And Yarding Practices

(1) For each harvesting operation, operators shall select a logging method and type of equipment appropriate to the given slope, landscape, and soil properties in order to minimize soil deterioration and to protect water quality.
(2) Operators shall avoid ground-based yarding on unstable, wet, or easily compacted soils unless operations can be conducted without damaging soil productivity through soil disturbance, compaction or erosion.
(3) Operators shall locate skid trails where sidecasting is kept to a minimum.
(4) Operators shall locate skid trails on stable areas so as to minimize the risk of material entering waters of the state.
(5) Operators shall avoid excavating skid trails on slumps or slides.
(6) Operators shall limit cable logging to uphill yarding whenever practical. When downhill cable yarding is necessary, operators shall use a layout and system which minimizes soil displacement.

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 (9) of this rule.
(3) 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 (9) of this rule.
(4) 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 (9) of this rule.
(5) If skid trails are located on steep or erosion-prone slopes, operators shall locate them at least 100 feet from any stream channels.
(6) Operators shall locate skid trails where water can drain off the skid trail and onto undisturbed soils.
(7) 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.
(8) Operators shall install effective cross ditches on all skid roads located on steep or erosion-prone slopes.
(9) 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.

629-630-0200
Landings

(1) Operators shall minimize the size of landings to that necessary for safe operation.
(2) Operators shall locate landings on stable areas so as to minimize the risk of material entering waters of the state.
(3) Operators shall avoid locating landings in riparian management areas. When no feasible alternative landing locations exist, operators shall submit a written plan to the State Forester before locating landings in riparian management areas.
(4) Operators shall not incorporate slash, logs, or other large quantities of organic material into landing fills.
(5) Operators shall deposit excess material from landing construction in stable locations well above the high water level.

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.

629-630-0400
Treatment of Waste Materials

(1) Operators shall leave or place all debris, slash, sidecast and other waste material associated with harvesting in such a manner to prevent their entry into waters of the state.
(2) Where sidecast material or exposed soils are potentially unstable or erodible, the operator shall stabilize it by pullback, spreading out, seeding or other effective means.
(3) Operators shall remove from the forest all petroleum product related waste material associated with the operation including, but not limited to, crankcase oil, filters, grease and oil containers.
(4) Operators shall dispose of all other debris such as machine parts, old wire rope, and used tractor tracks so that such materials do not enter waters of the state.

629-630-0500
Harvesting on High Landslide Hazard Locations

(1) The purpose of this rule is to prevent timber 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 public safety exposure from shallow, rapidly moving landslides using methods described in OAR 629-623-0100 through 0300. If there is public safety exposure, then the practices described in OAR 629-623-0400 through 0800 shall also apply.
(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.

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 and Type D streams, lakes and significant wetlands as an ongoing process (removal within 24 hours of the material entering the stream) during the harvest operation.
    (b) Not allowing slash to accumulate in Type N streams, lakes or wetlands in quantities that threaten water quality or increase the potential for mass debris movement.
    (c) Placing any slash that is removed from streams, lakes, or wetlands above high water levels where it will not enter waters of the state.

629-630-0700
Yarding; Cable Equipment Near Waters of the State

(1) Operators shall maintain the purposes and functions of vegetation required to be retained in riparian management areas and minimize disturbance to beds and banks of streams, lakes, all wetlands larger than one-quarter acre, and retained vegetation during cable yarding operations.

(2) Operators shall minimize the yarding of logs across streams, lakes, significant wetlands, and other wetlands greater than one-quarter acre whenever harvesting can be accomplished using existing roads or other practical alternatives.
(3) Operators may use yarding corridors through retained streamside trees as long as the numbers and widths of yarding corridors are minimized. Operators shall submit a written plan to the State Forester when yarding across streams classified as Type F or Type D, any large or medium Type N streams, lakes, or significant wetlands.
(4) When yarding across Type F or Type D streams, any large or medium Type N streams, lakes, or significant wetlands is necessary, it shall be done by swinging the yarded material free of the ground in the aquatic areas and riparian areas.
(5) Cable yarding across streams classified as small Type N or other wetlands greater than one-quarter acre shall be done in ways that minimize disturbances to the stream channel or wetland and minimize disturbances of retained streamside vegetation.

629-630-0800
Yarding; Ground-based Equipment Near Waters of the State

(1) Operators shall maintain the purposes and functions of vegetation required to be retained in riparian management areas, and minimize disturbances to beds and banks of streams, lakes, all wetlands larger than one-quarter acre, and retained vegetation during ground-based yarding operations.
(2) Operators shall not operate ground-based equipment within any stream channel except as allowed in the rules for temporary stream crossings.
(3) Operators shall minimize the number of stream crossings.
(4) For crossing streams that have water during the periods of the operations, operators shall:
    (a) Construct temporary stream crossing structures such as log crossings, culvert installations, or fords that are adequate to pass stream flows that are likely to occur during the periods of use. Structures shall be designed to withstand erosion by the streams and minimize sedimentation.
    (b) Choose locations for temporary stream crossing structures which minimize cuts and fills or other disturbances to the stream banks.
    (c) Minimize the volume of material in any fills constructed at a stream crossing. Fills over eight feet deep contain such a large volume of material that they can be a considerable risk to downstream beneficial uses should the material move downstream by water. For any fill for a temporary crossing that is over eight feet deep, operators shall submit to the State Forester a written plan that includes a description of how the fills would be constructed, passage of water, and the length of time the fills would be in the stream.
    (d) Design temporary structures so that fish movement is not impaired on Type F 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 area. Except at stream crossings, operators shall not locate skid trails within 35 feet of Type F or Type D streams. Operators shall provide adequate distances between all skid trails and waters of the state to filter sediment from runoff water.
(9) Operators shall locate and construct skid trails so that when high stream flow occurs water from the stream will not flow onto the skid trail.

DIVISION 635
WATER PROTECTION RULES: PURPOSE, GOALS, CLASSIFICATION AND RIPARIAN MANAGEMENT AREAS

629-635-0000
Purpose, Goals, Classification and Riparian Management Goals
The definitions in OAR 629-600-0100 apply to the Water Protection Rules, unless otherwise defined in the specific rules.

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 629-640-0400 (for streams) and 629-645-0020 (for wetlands). Operators are encouraged to:

- (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 riparian functions in streams, wetlands, 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 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."

(7) 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, 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 629-640-0000 (streams), 629-645-0000 (significant wetlands), and 629-650-0000 (lakes) that will maintain 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 629-640-0000 (streams), 629-645-0000 (significant wetlands), and 629-650-0000 (lakes) that will maintain 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.

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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 department 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 department and its cooperators place a high priority on assessing the monitoring needs and securing adequate resources to conduct the necessary monitoring. The department shall work with its cooperators and the Legislature to secure the necessary resources, funding and coordination for effective monitoring.
(4) The department 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.

629-635-0120
Watershed Specific Practices for Water Quality Limited Watersheds and Threatened or Endangered Aquatic Species
(1) The objective of this rule is to describe a process for determining whether additional watershed specific protection rules are needed for watersheds that have been designated as water quality limited or for watersheds containing threatened or endangered aquatic species.
(2) The Board of Forestry shall appoint an interdisciplinary task force, including representatives of forest landowners within the watershed and appropriate state agencies, to evaluate a watershed, if the board has determined based on evidence presented to it that forest practices in a watershed are measurably limiting to water quality achievement or species maintenance, and either:
    (a) The watershed is designated by the Environmental Quality Commission as water quality limited; or
    (b) The watershed contains threatened or endangered aquatic species identified on lists that are adopted by rule by the State Fish and Wildlife Commission, or are federally listed under the Endangered Species Act of 1973 as amended.
(3) The board shall direct the task force to analyze conditions within the watershed and recommend watershed-specific practices to ensure water quality achievement or species maintenance.
(4) The Board shall consider the report of the task force and take appropriate action.
(5) Nothing in this rule shall be interpreted to limit the Board's ability to study and address concerns for other species on a watershed basis.

629-635-0130
Written Plans for Streams, Lakes, Wetlands and Riparian Management Areas
(1) Operators shall submit to the State Forester a written plan before conducting any operation requiring notification under OAR 629-605-0140(1) within:
    (a) 100 feet of fish use or domestic water use streams (classified as Type F or Type D under OAR 629-635-0200), except as described in section (3) of this rule;
    (b) 300 feet of significant wetlands;
    (c) 100 feet of large lakes.
(2) In addition to the written plan requirements in OAR 629-605-0170, operators shall specifically describe in the written plan for operations within 100 feet of domestic water use portions of Type F or D streams the practices and methods that will be used to prevent sediment from entering waters of the state.
(3) The State Forester may waive, in writing, the requirement for a written plan within 100 feet of a Type F or Type D stream, if the State Forester determines the intended forest practice will not directly affect the physical components of the riparian management area. "Physical components" means materials such as, but not limited to, vegetation, snags, rocks, and soil. "Directly affect" means that physical components will be moved, disturbed, or otherwise altered by the operation activity, even if only temporarily.
(4) Written plans required under section (1)(a) and (1)(b) of this rule are subject to the process required for a written plan pursuant to ORS 527.670(8) through (12), and appeal pursuant to ORS 527.700.

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, waters of the state shall be classified as either streams, wetlands, or lakes.

(3) Streams shall be classified further according to their beneficial uses and size.

(4) Streams shall be classified into one of the following three beneficial use categories:
- (a) Streams that have fish use, including fish use streams that have domestic water use, shall be classified as Type F.
- (b) Streams that have domestic water use, but not fish use, shall be classified as Type D.
- (c) All other streams shall be classified as Type N.

(5) 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.

(6) 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) 3000 feet upstream of the intake.
- (c) Type D classification shall apply to tributaries off the main channel as long as the conditions of subsections (6)(a) and (b) of this rule apply.

(7) (a) A representative of a community water system or other domestic use water permit holder may request that the department 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 department 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.
- (b) The process and criteria described in subsection (7)(a), and the criteria under section (6) of this rule will be used to evaluate the extent of Type D classification for new community water systems.
- (c) The department 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 department 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) Through September 30, 2007, the department will use section (12) of this rule to determine if a water body has fish use. On and after October 1, 2007, the department will use section (13) of this rule to determine if a water body has fish use, and section (12) will be inoperative.

(12) The department, with assistance from the Oregon Department of Fish and Wildlife, will conduct a comprehensive field survey to identify fish use on non-federal forestland in Oregon. However, this survey will take a number of years to complete. In the interim, the following procedures apply to determining which unsurveyed waters are designated Type F:
- *(a) The department will assume that waters have fish use if they were Class I under the previous classification system. Waters that were Class I solely because of domestic water use are excluded.*
- *(b) If waters within the boundaries of a proposed operation were not Class I (under the previous classification system) and fish use is unknown, then:*

(A) The department will conduct a field survey for fish after a notification of operation is received; or

(B) The department will approximate the upstream extent of fish use in a watershed by considering the connection of the water with downstream waters where fish use is known. Fish use will be assumed to occur upstream of the known fish use until the first natural barrier to fish use is encountered.

(c) Where fish use is unknown, an operator may request that the department conduct a field survey for fish use for reaches of a stream that will be included within an operation that is scheduled to start at least 12 months following the request. The operator shall limit such requests to operations that are part of a landowner's planned harvest schedule and will be conducted during the following year. The department, with assistance from the Oregon Department of Fish and Wildlife when needed, shall attempt to complete such surveys within 12 months following the request. If the survey cannot be conducted in the time indicated, the stream will be considered to have no fish use. However, if the operation has not commenced within six months of the time the operation was scheduled to begin, the stream will again be considered to have unknown fish use.

(d) The department may use other reliable fish survey information when determining whether or not a stream has fish use. This information could include surveys done by landowners, federal or state agencies, universities, or other persons or entities. The department will determine whether such information is reliable. **[INOPERATIVE NOW PER SECTION (11)].**

(13) For the purposes of stream classification, the department will use the procedures in this section to determine if a stream has 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, the department will designate fish use based on the survey.

(b) For stream segments where field surveys for fish use show that fish use ends at an artificial obstruction to fish passage, the department 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 department 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 respect to any artificial obstructions to fish passage. An operator may request that the department conduct a fish presence survey to verify this designation of fish use in stream segments associated with an operation scheduled to start between 12 and 24 months after the request.

(A) The department will make a good faith effort to conduct the requested surveys and will prioritize its survey work taking into account landowners without the financial or technical resources to conduct the surveys themselves.

(B) As an option, the landowner may conduct the fish presence survey.

(C) If neither the landowner nor the department is able to conduct the survey before the operation begins, the Type F classification applies up to the first natural barrier to fish use.

(d) 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.

(e) The department 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.

(f) 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 department will grant the request upon 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.

(g) When an exception to Type F stream classification is made above an artificial obstruction, the department will classify the stream as either Type D or Type N as appropriate and operators must apply the corresponding vegetation retention requirements.

(h) For the purposes of ORS 215.730(1)(b)(C), Type N streams are equivalent to "Class II streams."

(14) For each of the three beneficial use categories (Type F, Type D, and Type N), 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 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) The assignment of size categories to streams on forestland will be done by the department as follows:
(a) The department will index average annual flow to the upstream drainage area and average annual precipitation. The methodology is described in Technical Note FP1 dated April 21, 1994.
(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 subsection (15)(a).

(16) Wetlands shall be classified further as indicated below:
(a) The following types of wetlands are classified as "significant wetlands":
(A) Wetlands that are larger than 8 acres;
(B) Estuaries;
(C) Bogs; and
(D) Important springs in eastern Oregon.
(b) Stream-associated wetlands that are less than 8 acres are classified according to the stream with which they are connected.
(c) All other wetlands, including seeps and springs are classified according to their size as either "other wetlands greater than one-quarter acre" or "other wetlands less than one-quarter acre."

(17) Lakes shall be classified further as indicated below:
(a) Lakes greater than 8 acres are classified as "large lakes."
(b) All other lakes are classified as "other lakes."

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 notice of operations required by ORS 527.670(6) may be submitted. The map shall show streams, lakes and significant wetlands of known classification within the geographic area of responsibility for that unit office. For streams, the maps shall indicate the size class and, when known, extent of fish 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 department. 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 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.

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 boundaries and names of the geographic regions are displayed in Figure 1 *[on page 48]*. Precise boundaries are found on maps at department field offices. Geographic regions are not "forest regions" established pursuant to ORS 527.640.

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.

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(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.

(b) 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.

629-635-0310
Riparian Management Area Widths for Streams

(1) (a) The riparian management area widths for streams are designated for each stream type as shown in Table 1 *[on page 49]*.

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

(c) Notwithstanding the distances designated in subsection (1)(a), where wetlands or side channels extend beyond the designated riparian management area widths, 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.

DIVISION 640
WATER PROTECTION RULES: VEGETATION RETENTION ALONG STREAMS

629-640-0000
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 OAR 629-640-0100 through 629-640-0400 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 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 OAR 629-640-0100 and 629-640-0200. 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 629-640-0300 or develop a site specific vegetation retention prescription described in OAR 629-640-0400. 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.

629-640-0100
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.
(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 *[on page 49]* where the harvest unit will be a harvest type 2 or type 3 unit (as defined by ORS 527.620), or Table 3 *[on page 50]* 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 629-640-0300 where applicable, or develop a site specific vegetation retention prescription as described in OAR 629-640-0400; 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 or dying 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 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.

(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 *[on page 50],* 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, live conifer trees retained in excess of the active management target 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, 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.

629-640-0105
Placing Large Wood Key Pieces in Type F Streams to Improve Fish Habitat

(1) Placement of large wood key pieces in a Type F 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; and
  (c) Restore and maintain natural aquatic habitat over time rather than rely on constructed habitat structures.
  (d) Meet the standards established in *A Guide to Placing Large Wood in Streams*, Oregon Department of Forestry and Oregon Department of Fish and Wildlife, May 1995.

629-640-0110
Live Tree Retention Credit for Improvement of Type F Streams

(1) Many Type F 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 629-640-0105, may qualify for the live tree retention credit 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 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, 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, 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 department 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 department, 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 shown in Table 2 or 3 *[on pages 49 and 50]*, 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.

629-640-0200

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 5 *[on page 51]*.

(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 6 *[on page 51]* where the harvest will be a harvest type 2 or type 3 unit (as defined by ORS 527.620), or in Table 7 *[on page 52]* 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 6 *[on page 51]* where the harvest will be a harvest type 1 or type 2 unit or Table 7 where the harvest unit is a harvest type 1, partial harvest, or thinning), but greater than one-half the standard target shown in Table 6, 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 6:

(A) Operators may apply an alternative vegetation retention prescription as described in OAR 629-640-0300, where applicable, or develop a site specific vegetation retention prescription as described in OAR 629-640-0400; 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 Oregon 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 629-640-0100 *[on page 50]*, 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.

629-640-0210
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 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 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 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 OAR 629-640-0100(11) and 629-640-0200(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 stream.

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

629-640-0300
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 conifers to maintain fish, wildlife, and water quality resources over time. Future desired streamside stand conditions are achieved through immediate manipulation of vegetation, including reforesting the riparian management area with 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 629-640-0100 *[on page 49]* or Table 6 of 629-640-0200 *[on page 51]*, 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 *[on page 49]*.
  (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 *[on page 51]*.
  (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.

629-640-0400
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 629-640-0100 and 629-640-0200. 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 629-640-0000 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.

629-640-0500
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 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, landowners should anticipate and plan for such factors as brush control measures, animal damage problems, and tree species that are suitable for wetter sites.

FIGURE 1. Geographic Regions
OAR 629-635-0220

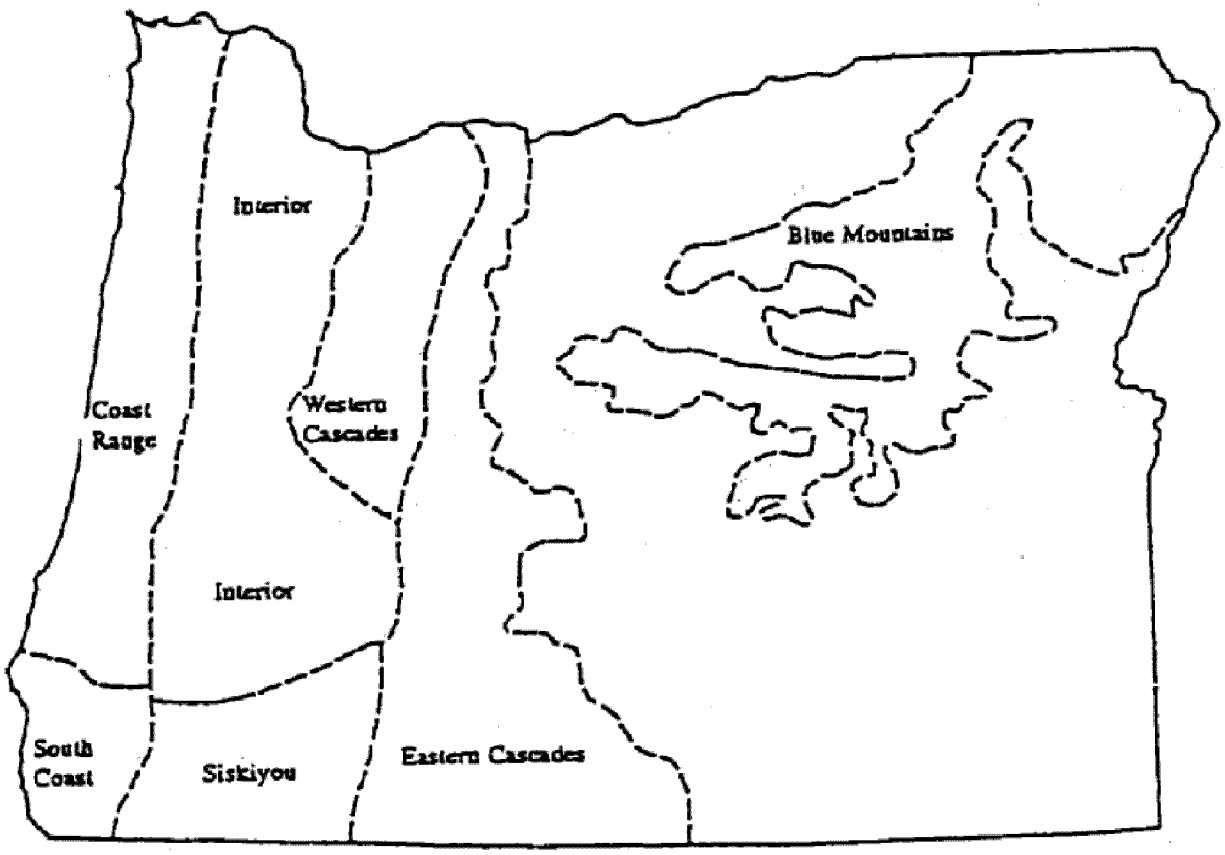

TABLE 1. Riparian Management Area Widths for Streams of Various Sizes and Beneficial Uses (OAR 629-635-0310.)

	Type F	Type D	Type N
LARGE	100 feet	70 feet	70 feet
MEDIUM	70 feet	50 feet	50 feet
SMALL	50 feet	20 feet	Apply specified water quality protection measures, and see OAR 629-640-0200.

TABLE 2. General Prescription for Type F streams: Streamside Tree Retention for Harvest Type 2 or Type 3 Units (OAR 629-640-0100 (6) (a))

Geographic Region	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE					
	LARGE Type F RMA = 100 feet		MEDIUM Type F RMA = 70 feet		SMALL Type F RMA = 50 feet	
	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target
Coast Range & S. Coast	230	170	120	90	40	20
Interior & W. Cascade	270	200	140	110	40	20
Siskiyou	220	170	110	90	40	20
Eastern Cascade & Blue Mountain	170	130	90	70	50[1]	50[2]

[1] The maximum live conifer tree basal area that must be retained is 40 square feet. The remaining basal area may come from snags, dying or recently dead or dying trees, or hardwood trees if available within the riparian management area.

[2] 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 within the riparian management area.

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TABLE 3. General Prescription for Type F Streams: Streamside Tree Retention for Harvest Type 1, Partial Harvest, or Thinning Units (OAR 629-640-0100 (6) (a))

	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE					
Geographic region	LARGE Type F RMA = 100 feet		MEDIUM Type F RMA = 70 feet		SMALL Type F RMA = 50 feet	
	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target
Coast Range & S. Coast	300	270	160	140	50	30
Interior & W. Cascade	350	310	180	160	50	30
Siskiyou	290	260	140	120	50	30
Eastern Cascade & Blue Mountain	220	200	120	100	50[1]	50[2]

[1]The maximum live conifer tree basal area that must be retained is 40 square feet. The remaining basal area may come from snags, dying or recently dead or dying trees, or hardwood trees if available within the riparian management area.

[2]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 within the riparian management area.

TABLE 4. Basal Area for Various Diameter Classes (OAR 629-640-0100 (10))

Diameter Breast Height (inches)	Basal Area (square feet)	Diameter Breast Height (inches)	Basal Area (square feet)
6 to 10	0.3	41 to 45	10.1
11 to 15	0.9	46 to 50	12.6
16 to 20	1.8	51 to 55	15.3
21 to 25	2.9	56 to 60	18.3
26 to 30	4.3	61 to 65	21.6
31 to 35	5.9	66 to 70	25.2
36 to 40	7.9	71 to 75	29.0

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TABLE 5. Vegetation Retention for Specified Small Type N Streams (OAR 629-640-0200 (6))

Geographic Region	Retain Understory Vegetation and Unmerchantable Conifers 10 Feet Each Side of Stream for:
Eastern Cascades and Blue Mountains	All perennial streams.
South Coast	Portions of perennial streams where the upstream drainage area is greater than 160 acres.
Interior	Portions of perennial streams where the upstream drainage area is greater than 330 acres.
Siskiyou	Portions of perennial streams where the upstream drainage area is greater than 580 acres.
Coast Range and Western Cascades	No retention required.

TABLE 6. General Prescription for Type D, and Large and Medium Type N Streams: Streamside Tree Retention for Harvest Type 2, or Type 3 Units (OAR 629-640-0200 (7) (a))

Geographic Region	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE		
	LARGE TYPE D AND N RMA = 70 feet	MEDIUM TYPE D AND N RMA = 50 feet	SMALL TYPE D RMA = 20 feet
	Standard Target	Standard Target	Standard Target
Coast Range and South Coast	90	50[1]	0
Interior and Western Cascade	110	50[1]	0
Siskiyou	90	50[1]	0
Eastern Cascade and Blue Mountain	70	50[1]	0

[1] Hardwoods may count up to 30 square feet per 1000 feet towards meeting the standard target.

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TABLE 7. General Prescription for Type D, and Large and Medium Type N Streams: Streamside Tree Retention for Harvest Type 1, Partial Harvest, and Thinning Units (OAR 629-640-0200 (7) (a))

Geographic Region	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE		
	LARGE TYPE D AND N RMA = 70 feet	MEDIUM TYPE D AND N RMA = 50 feet	SMALL TYPE D RMA = 20 feet
	Standard Target	Standard Target	Standard Target
Coast Range and South Coast	140	60[1]	0
Interior and Western Cascade	160	60[1]	0
Siskiyou	120	60[1]	0
Eastern Cascade and Blue Mountain	100	60[1]	0

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

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DIVISION 645
WATER PROTECTION RULES: RIPARIAN MANAGEMENT AREAS AND PROTECTION MEASURES FOR SIGNIFICANT WETLANDS

629-645-0000
Riparian Management Areas and Protection Measures for Significant Wetlands

(1) (a) The purpose of these rules is to protect the functions and values of significant wetlands, including wetlands larger than eight acres, estuaries, bogs and important springs in eastern Oregon on forestlands.

(b) Significant wetlands on forestlands provide a wide range of functions and values, including those related to water quality, hydrologic function, fish and other aquatic organisms, and wildlife.

(c) Estuaries are unique systems because they form transitions between terrestrial, marine, and freshwater environments. Because of this link, estuarine systems are among the most biologically productive in the world. Estuaries support many resident species. Estuaries also provide food, spawning area, and shelter for numerous other species at critical points in their life cycles. Removal of shoreline trees reduces the overall productivity of the estuary by reducing leaf and litter fall, thus depriving the estuary of substrate, and by removing feeding and resting habitat for birds and small mammals.

(d) Bog communities are a result of specific hydrologic, soil, and nutrient conditions. Bogs are usually saturated, low in nutrients, and highly acidic changes in runoff, sediment loading, and nutrient loading can alter the plant community composition. The peat soils have evolved over time. Compaction damages plant communities and may encourage the invasion of exotic species. Harvesting may disrupt shade tolerant vegetation, alter plant community characteristics, and hasten succession. Compaction, saturated conditions, and poor nutrient status make reforestation difficult.

(e) In arid parts of eastern Oregon, springs provide a critical source of water. These important springs have established wetland vegetation, flow year round in most years, and are used by a concentration of diverse animal species. By reason of sparse occurrence, important springs have a major influence on the distribution and abundance of upland species. Important springs shall be identified by the State Forester.

(2) (a) The goals of significant wetland protection are to maintain the functions and values of significant wetlands on forestlands over time, and to ensure that forest practices do not lead to resource site destruction or reduced productivity, while at the same time ensuring the continuous growth and harvest of forest tree species. To accomplish these goals, the rules focus on the protection of soil, hydrologic functions, and specified levels of vegetation.

(b) The intent of the rules is to minimize soil disturbance and to minimize disturbance to the natural drainage patterns of the significant wetland.

(c) Vegetation retention (including understory vegetation, snags, downed wood, and live trees) is needed to prevent erosion and sedimentation into the significant wetland, minimize soil disturbance and hydrologic changes, and to maintain components of the vegetation structure to provide for other benefits, particularly fish and wildlife values.

(3) Significant wetlands other than estuaries, bogs or important springs in eastern Oregon shall have riparian management areas extending 100 feet from the wetlands. When an operation is proposed within 300 feet of a significant wetland, the resource site evaluation process in OAR 629-665-0020 shall be followed by the landowner, operator or timber owner. If the proposed operation conflicts with the significant wetland, the operator shall submit a written plan to the State Forester before starting operations. The written plan shall comply with the requirements of OAR 629-605-0170, Written Plans.

(4) For all significant wetlands, operators shall provide the following to the wetlands and riparian management areas:

(a) Live tree retention (OAR 629-645-0010);

(b) Soil and hydrologic function protection (OAR 629-645-0030);

(c) Understory vegetation retention (OAR 629-645-0040); and

(d) Snag and down wood retention (OAR 629-645-0050).

(5) For forested significant wetlands, written plans must address reforestation.

(6) When an operation is proposed within 300 feet of an estuary, bog or important spring in eastern Oregon, the State Forester shall determine the riparian management area during the resource site inspection required by OAR 629-665-0020. Riparian management areas shall extend outward 100 to 200 feet from the estuary, 50 to 100 feet from the bog, or 50 to 100 feet from the important spring in eastern Oregon. The distance determination of the State Forester shall depend on:
  (a) Stocking level of the timber stand adjacent to the estuary, bog or spring;
  (b) Ability of the area to withstand windthrow;
  (c) Size of the estuary, bog or spring. As the size increases, the size of the riparian management area shall increase; and
  (d) For bogs and springs only, topography and erodibility of adjacent uplands.

629-645-0010
Live Tree Retention for Significant Wetlands

(1) In significant wetlands and their riparian management areas, operators shall retain approximately 50 percent of the original live trees, by species, in each of the following diameter classes (DBH):
  (a) 6 to 10 inches;
  (b) 11 to 20 inches;
  (c) 21 to 30 inches; and
  (d) larger than 30 inches.
(2) As part of the live trees in subsection (1) above, operators shall retain trees bordering significant wetlands.
(3) For estuaries and the adjacent riparian management areas, operators shall protect live trees that are:
  (a) Perch and nest trees for predatory birds and colonial nesting birds;
  (b) Likely to provide for future large woody debris to the estuaries' perimeters; and
  (c) Contributing to bank stability.

629-645-0020
Site-Specific Vegetation Retention Prescriptions for Significant Wetlands

(1) Operators are encouraged to develop site specific vegetation retention prescriptions for significant wetlands in a plan for an alternate practice.
(2) The functions and values of forested wetlands vary with species composition, stocking levels, and geographic location. Operators are encouraged to propose site specific vegetation retention prescriptions in a plan for an alternate practice that allow for changes to the live tree requirements in OAR 629-645-0010 and that provide equal or better protection of the functions and values of forested significant wetlands and forested stream-associated wetlands, and address operational concerns.

629-645-0030
Soil and Hydrologic Function Protection for Significant Wetlands

(1) In significant wetlands and their riparian management areas, operators shall protect soil from disturbances that result in impaired water quality, hydrologic functions, or soil productivity. Operators shall protect hydrologic functions by minimizing disturbances and shall prevent accelerating the natural conversion of the wetland to uplands.
(2) The written plan required under OAR 629-635-0130 shall describe how the operation will be conducted to prevent adverse effects on water quality, hydrologic functions or soil productivity. The following practices shall be addressed in written plans when they are proposed in significant wetlands:
  (a) Filling within wetlands;
  (b) Machine activity within wetlands; and
  (c) Road construction within wetlands.
(3) Operators shall not drain significant wetlands.
(4) Notwithstanding subsection (3) of this rule, minor drainage for reforestation is allowed. Any drainage for reforestation must be designed so the significant wetland is not converted to an upland.

629-645-0040
Understory Vegetation Retention for Significant Wetlands

(1) The purpose of retaining understory vegetation is to provide soil stability and bank stability in and along significant wetlands, to maintain cover and shade for wildlife habitat and aquatic habitat, and to protect water quality.
(2) To achieve the purpose of understory retention, the operator shall limit disturbance of understory vegetation within significant wetlands and their riparian management areas to the minimum necessary to remove timber harvested from the area and achieve successful reforestation.

(3) The written plan required in OAR 629-635-0130 for operations within 300 feet of significant wetlands shall describe how disturbance to the understory vegetation will be minimized during harvest or site preparation for reforestation.

629-645-0050
Snag and Downed Wood Retention for Significant Wetlands

(1) For significant wetlands, operators shall retain all snags and downed trees within the wetlands and the applicable riparian management areas.
(2) Notwithstanding subsection (1) of this rule, any snag defined to be a safety hazard under the safety requirements found in OAR 437, Division 7, Forest Activities, or determined to be a fire hazard by the State Forester, may be felled. Any snag felled because of a safety or fire hazard shall be left unyarded.
(3) The retention requirements in subsection (1) of this rule may be modified for reasons of forest health for trees that are dying or recently dead or dying because of fire, insect or disease epidemics, or other catastrophic events when addressed in a plan for an alternate practice approved by the State Forester.
(4) Snags and downed wood left pursuant to subsection (1) of this rule may not be counted toward the requirements of ORS 527.676.

DIVISION 650
WATER PROTECTION RULES: RIPARIAN MANAGEMENT AREAS AND PROTECTION MEASURES FOR LAKES

629-650-0000
Riparian Management Areas and Protection Measures for Lakes

(1) The purpose of this rule is to protect the functions and values of lakes. Lakes on forestlands provide a wide range of functions and values, including those related to water quality, hydrologic functions, aquatic organisms, fish and wildlife.
(2) Operators shall protect riparian management areas extending:
    (a) 100 feet from the high water level of large lakes; and
    (b) 50 feet from the high water level of other lakes that have fish use or other lakes that are equal to or greater than one-half acre in size.
    (c) No riparian management area is required for other lakes that do not have fish and that are less than one-half acre.
(3) For all lakes with riparian management areas, operators shall provide the following to the riparian management areas and the aquatic areas:
    (a) Live tree retention (OAR 629-650-0010);
    (b) Soil and hydrologic function protection (OAR 629-650-0020);
    (c) Understory vegetation retention (OAR 629-650-0030); and
    (d) Snag and down wood retention (OAR 629-650-0040).
(4) For all lakes not having riparian management areas, the lakes shall be protected as other wetlands (OAR 629-655-0000).

629-650-0010
Live Tree Retention for Lakes

(1) Operators shall retain in the riparian management areas of lakes approximately 50 percent of the original live trees, by species, in each of the following diameter classes (DBH):
    (a) 6 to 10 inches;
    (b) 11 to 20 inches;
    (c) 21 to 30 inches; and
    (d) larger than 30 inches.
(2) As part of the live trees in subsection (1) above, trees on the edge of lakes shall be retained.

629-650-0020
Soil and Hydrologic Function Protection for Lakes

(1) Operators shall protect soil within the riparian management areas of lakes from disturbances that result in impaired water quality, hydrologic functions, or soil productivity. Operators shall protect hydrologic functions by minimizing disturbances and shall prevent accelerating the natural conversions of lakes to uplands.

(2) Operators shall not drain lakes except for lakes formed by plugged culverts or beaver dams and as allowed in rule for road maintenance.

629-650-0030
Understory Vegetation Retention for Lakes

(1) The purpose of retaining understory vegetation is to provide soil stability and bank stability along lakes, to maintain cover and shade for wildlife habitat and aquatic habitat, and to protect water quality.
(2) To achieve the purpose of understory retention, operators shall limit disturbance of understory vegetation within riparian management areas of lakes to the minimum necessary to remove timber harvested from the areas and to achieve successful reforestation.

629-650-0040
Snag Retention and Downed Wood Retention for Lakes

(1) For lakes, operators shall retain all snags and downed trees within the lakes and the applicable riparian management areas.
(2) Notwithstanding subsection (1) of this rule, any snag defined to be a safety hazard under the safety requirements found in OAR 437, Division 7, Forest Activities, or determined to be a fire hazard by the State Forester, may be felled. Any snag felled because of a safety or fire hazard shall be unyarded.
(3) The retention requirements in subsection (1) of this rule may be modified for reasons of forest health for trees that are dying or recently dead because of fire, insect or disease epidemics, or other catastrophic events when addressed in a plan for an alternate practice approved by the State Forester.
(4) Snags and downed wood left pursuant to this rule may not be counted toward the requirements of ORS 527.676.

DIVISION 655
WATER PROTECTION RULES: PROTECTION MEASURES FOR "OTHER WETLANDS", SEEPS AND SPRINGS

629-655-0000
Protection Measures for "Other Wetlands," Seeps and Springs

(1) There is no riparian management area for other wetlands, seeps and springs.
(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 437, Division 7, Forest Activities.
        (A) Any snags felled because of safety or fire hazards shall be left unyarded.
        (B) Snags and downed wood left within other wetlands, seeps or springs may apply toward the requirements of ORS 527.676.
(3) When conducting operations along other wetlands less than one-quarter acre, springs or seeps, operators shall protect soil and vegetation from disturbances which would cause adverse effects on water quality, hydrologic function, and wildlife and aquatic habitat.
(4) Identification of other wetlands is sometimes difficult, especially when the wetland has no standing water. This is particularly true when the other wetland is forested or very small. In recognition of these facts, the State Forester shall apply appropriate discretion when determining compliance with this rule.
(5) Operators are encouraged to:
    (a) Retain portions of in-unit live green trees and snags as blocks of intact vegetation around other wetlands; and
    (b) For other wetlands that are forested, adequately consider how reforestation will be accomplished.

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DIVISION 660
WATER PROTECTION RULES: SPECIFIC RULES FOR OPERATIONS NEAR WATERS OF THE STATE

629-660-0040
Stream Channel Changes

(1) Operators shall not channelize, relocate, or divert water from any stream, except as allowed in the forest practice rules for construction of roads, stream improvement projects or temporary stream crossings.

(2) Operators shall not add to or remove soil or rock from any streams, except as allowed in the forest practice rules for construction of roads, stream improvement projects or temporary stream crossings.

629-660-0050
Beaver Dams or Other Natural Obstructions

(1) Except as needed for road maintenance, operators must submit a written plan to the State Forester prior to the removal of beaver dams and other natural obstructions from waters of the state during forest operations. Removal of any beaver dam that is within 25 feet of a culvert shall be considered to be needed for road maintenance.

(2) A written plan for removal of a beaver dam or obstruction must demonstrate:
   - (a) A beaver dam or obstruction threatens existing forests or plantations; or
   - (b) Beaver dam removal is part of a beaver population control program approved by the Oregon Department of Fish and Wildlife; or
   - (c) Retaining the beaver dam or obstruction would result in greater environmental harm than benefit.

(3) Sediment releases and downstream channel scouring can occur when beaver dams are removed. Operators are encouraged to use techniques that result in a gradual release of water when a dam is removed.

629-660-0060
Headwater Amphibian Species

Amphibians that are sensitive to temperature and moisture fluctuations may live in small Type N streams. Operators are encouraged to retain portions of in-unit green live trees and snags as blocks of intact vegetation along small Type N streams.

DIVISION 665
SPECIFIED RESOURCE SITE PROTECTION RULES

629-665-0000
Purpose

(1) OAR 629-665-0000 to 0300 shall be known as the specified resource site protection rules.

(2) These rules provide a protection goal, describe the duties of the State Forester, landowner, timber owner and operator, and outline protection for:
   - (a) Sensitive Bird Nesting, Roosting and Watering Resource Sites (OAR 629-665-0100);
   - (b) Threatened and Endangered Fish and Wildlife Species that use Resource Sites on Forestlands (OAR 629-665-0200);
   - (c) Biological Sites that are Ecologically and Scientifically Significant (OAR 629-665-0300); and
   - (d) Significant Wetlands on Forestlands (OAR Chapter 629, Division 645).

629-665-0010
Protection Goal for a Resource Site

(1) The goal of resource site protection is to ensure that forest practices do not lead to resource site destruction, abandonment or reduced productivity.

(2) A resource site shall receive protection when the State Forester determines:
   - (a) It is an active resource site; and
   - (b) Proposed forest practices conflict with the resource site.

(3) The State Forester may grant an exception from either structural or temporal protection as determined by the Board for each species or resource site.

629-665-0020
Application of Protection and Exception Rules; State Forester Duties; Landowner, Timber Owner and Operator Duties

(1) When a landowner, timber owner or operator proposes an operation near a resource site that requires special protection, the State Forester shall inspect the resource site with the landowner or landowner's representative, the operator and when available, the appropriate representative of the Department of Fish and Wildlife. The State Forester shall:
  (a) Identify the resource site.
  (b) Apply the protection goal in OAR 629-665-0010.
    (A) If the proposed forest practices do not conflict with the resource site, the operation will not be subject to the protection requirements for the resource site. The operation shall be conducted in compliance with all other existing forest practice rules;
    (B) If the proposed forest practices conflict with the resource site, the structural and temporal protection requirements for the resource site shall be required to eliminate the conflict;
    (C) When the proposed forest practices conflict with a resource site, the landowner or operator may request a structural or temporal exception through a plan for an alternate practice, if the applicable administrative rule provides for such an exception.
    (D) The State Forester shall document and maintain on file the reasons for granting or denying all exceptions.

(2) If the proposed operation conflicts with the resource site, the operator shall submit a written plan to the State Forester before starting operations. The written plan shall comply with the requirements of OAR 629-605-0170, Written Plans.

(3) When the written plan in subsection (2) of this rule does not follow the written recommendations of the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester shall maintain on file a written explanation of the reasons for:
  (a) Differences in the identification of the resource site; and
  (b) Different protection levels required for the resource site.

(4) When a resource site is discovered by the operator, timber owner or landowner during a forest operation, the party making the discovery shall:
  (a) Immediately protect all remaining trees within 300 feet of the resource site and submit to the State Forester a written plan for the resource site; and
  (b) Immediately notify the State Forester.

629-665-0100
Species Using Sensitive Bird Nesting, Roosting and Watering Sites

The following species use sensitive bird nesting, roosting and watering resource sites:
(1) Osprey use sensitive bird nesting sites.
(2) Great blue herons use sensitive bird nesting sites.

629-665-0110
Osprey Resource Sites; Key Components; Protection Requirements; and Exceptions

(1) For osprey, the resource site is the active nest tree and any identified key components.
  (a) An active nest tree is one that has been used by osprey within the past five (5) nesting seasons. No protection is required for abandoned resource sites.
  (b) The key components associated with an osprey resource site are perching and fledging trees and replacement trees. Factors to consider when identifying key components:
    (A) Actual observation data if available;
    (B) Perching trees should provide for maximum visibility of the surrounding terrain and structure that allows the osprey easy access, such as large, tall snags or trees that have broken or dead tops, forks, or lateral branches high in the crown;
    (C) Replacement trees should provide maximum visibility of the surrounding terrain, and be large enough to support an osprey nest;
    (D) Perching and fledging trees and replacement trees should be located within 600 feet of the active nest tree;
    (E) Areas of high winds may require that additional trees be retained to protect the resource site from damage.

(2) When the State Forester identifies the resource site as per OAR 629-665-0020, the operator shall provide the following protection measures:
  (a) Retain the active nest tree; and
  (b) Retain no fewer than eight additional trees as key components (i.e.: perching, fledging and replacement trees).
  (c) During forest operations, the resource site shall be protected from damage. The operation shall be designed to protect these trees from windthrow;
  (d) During the critical period of use, the active nest tree and any perch tree identified as a key component shall be protected from disturbance. From March 1st through September 15th, forest operations shall not be permitted within 600 feet of the active nest tree or perch tree unless the State Forester determines that the operations will not cause the birds to flush from these trees. The critical period of use may be modified in writing by the State Forester as the resource site is evaluated as per OAR 629-665-0020.

(3) The State Forester shall not permit structural exceptions for the resource site: Removal of a resource site may be permitted if replacement nest trees, artificial structures, or replacement key components are provided by the operator or landowner. Replacement is not considered an exception, since the productivity of the nesting territory is maintained. When addressed in a plan for an alternate practice, replacement may be considered by the State Forester when:
  (a) Alternate forest practices which retain and protect the resource site are not economically feasible; and
  (b) The productivity of the nesting territory is not reduced.

(4) Temporal exceptions for the resource site may be approved by the State Forester when addressed in a plan for an alternate practice that demonstrates:
  (a) Nest disruption or failure for a season does not affect the local population; and
  (b) There are no economically feasible forest practices that avoid disturbance to the resource site during the critical period of use.

(5) Factors considered by the State Forester before approving a plan for an alternate practice under section (4) of this rule shall include, but are not limited to:
  (a) The size of the local population;
  (b) The contribution of the resource site in question to the local population; and
  (c) The feasibility of alternate forest practices that do not cause disturbance.

(6) The State Forester shall document all requests and decisions concerning structural or temporal exceptions. All approved structural replacements shall be documented.

629-665-0120
Great Blue Heron Resource Sites; Key Components; Protection Requirements; and Exceptions

(1) For the great blue heron, the resource site is the active nest tree(s) and any identified key components.
  (a) An active nest tree is one that has been used by one or more pair of great blue heron within the past three nesting seasons. No protection is required for an abandoned resource site.
  (b) The key components associated with a great blue heron resource site are the nest tree(s), a vegetative buffer around the nest tree(s) including perching and fledging trees, and replacement tree(s). Factors to consider when identifying key components:
    (A) Actual observation data when available;
    (B) Perching, fledging, and replacement tree(s) should be tall with plenty of space for these large birds to fly into and out. Older trees with open branching should be retained;
    (C) Areas of high winds may require that additional trees be retained to protect the active nest tree and identified key components from damage.

(2) The operator shall provide the following protection measures when operating within or near a great blue heron resource site:
  (a) Retain the active nest tree;
  (b) Retain a vegetative buffer not less than 300 feet around the outermost nest trees as key components that includes perching and fledging trees, and replacement trees.
  (c) The vegetative buffer around a rookery may be actively managed if the key components in subsection (1) are protected. When conducting forest management activities within this buffer, operators shall consider heron protection as the highest priority. The vegetative buffer needs to provide a visual screen from disturbing influences around the rookery, and must be designed to protect the nest tree(s), perching, fledging, and replacement tree(s) from windthrow. Examples of

forest management activities that may occur within the vegetative buffer include tree topping, and/or other methods of "feathering" the outer edges of the buffer to reduce windthrow potential, or remove individual trees (especially along the edge of the buffer) if the integrity of the buffer is maintained and all the key components are adequately protected. Input from the ODFW wildlife biologist and ODF's fish and wildlife specialist is important when marking trees to be removed from this buffer.

(d) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the key components from windthrow;

(e) During the critical period of use, operations shall be designed and conducted so as not to disturb great blue herons using the key components. From February 15 through July 31, forest operations shall not be permitted within one-quarter (1/4) mile of the active nest tree(s) unless the State Forester determines that the operations will not cause the birds to flush from these trees. The critical period of use may be modified by the State Forester after the resource site is evaluated following OAR 629-665-0020.

(3) Structural exceptions for the resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when these criteria are met:

(a) The site contains five nests or fewer;

(b) The State Forester determines that the loss of the site will not adversely affect the local population; and

(c) There are no economically feasible alternatives that maintain the key components.

(4) Factors considered by the State Forester before approving a structural exception to protection of a great blue heron resource site shall include, but are not limited to:

(a) The size of the site (number of nests);

(b) The size of the breeding population in the local area;

(c) The productivity of great blue herons in the local area;

(d) The contribution of the site to local productivity;

(e) The probability that protection measures will be successful;

(f) Available alternate nesting sites; and

(g) Whether alternatives that protect the site are economically feasible.

(5) Temporal exceptions to protection of a great blue heron resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when:

(a) The State Forester determines that nest disruption or failure for a season or site abandonment will not adversely affect the local population; and

(b) There are no economically feasible alternatives that will not disturb the birds during the critical period of use.

(6) Factors considered by the State Forester before approving a temporal exception shall include, but are not limited to:

(a) The size of the site (number of nests);

(b) The size of the breeding population in the local area;

(c) The productivity of great blue herons in the local area;

(d) The contribution of the site to local productivity; and

(e) Whether alternatives that protect the site are economically feasible.

629-665-0200

Resource Sites Used By Threatened and Endangered Species

The following resource sites used by threatened or endangered species are sensitive to forest practices:

(1) Northern spotted owl nesting sites.

(2) Bald eagle nesting sites.

(3) Bald eagle roosting sites.

(4) Bald eagle foraging perches.

629-665-0210

Interim Requirements for Northern Spotted Owl Nesting Sites

(1) Whenever the State Forester determines that an operation will conflict with protection of a nesting site of the northern spotted owl (Strix occidentalis caurina), the operator must submit to the State Forester a written plan

before commencing the operation. The written plan, at a minimum, must address how the operation will be conducted to provide for the following:

(a) A 70 acre area of suitable spotted owl habitat encompassing the nest site, to be maintained as suitable spotted owl habitat;

(b) Prevention of disturbances resulting from operation activities which cause owls to flush from the nesting site. Such disturbances must be prevented during the critical period of use for nesting. The critical period of use is the time period between March 1 and September 30, each year.

(2) For the purposes of this rule, nesting site means and includes the tree, when known, containing a spotted owl nest; or when not specifically known, includes an activity center of a pair of adult spotted owls. An activity center is a location determined by the State Forester to have been reliably identified as being occupied by an adult pair of spotted owls, capable of breeding. Such determination must be supported by repeated observation of the owls in close proximity or observation of nesting behavior.

(3) (a) For the purposes of this rule, suitable spotted owl habitat means and includes:

(A) A stand of trees with moderate to high canopy closure (60 to 80%); a multi-layered, multi-species canopy dominated by large overstory trees (greater than 30 inches in diameter at breast height); a high incidence of large trees with various deformities (e.g., large cavities, broken tops, and other evidence of decadence); numerous large snags; large accumulations of fallen trees and other woody debris on the ground; and sufficient open space below the canopy for owls to fly; or

(B) In the absence of habitat which exhibits all the characteristics listed above, the available forested habitat which comes closest to approximating the listed conditions.

(b) Stands which do not exhibit at least two of the characteristics listed in paragraph (a)(A) of this section are not suitable habitat.

(4) (For information only) Federal law prohibits a person from taking northern spotted owls. Taking under the federal law may include significant alteration of owl habitat on any class of land ownership. Compliance with subsection (1) of this rule is not in lieu of compliance with any federal requirements related to the federal Endangered Species Act.

(5) Exceptions to the requirements for protecting northern spotted owl nesting sites are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Endangered Species Act.

629-665-0220

Bald Eagle Nesting Sites; Key Components; Protection Requirements; and Exceptions

(1) For bald eagle nesting sites, the resource site is the active nest tree and all identified key components:

(a) An active nest tree is one in which a bald eagle has nested in the past, and that the State Forester determines to be structurally capable of successful future use, whether or not the tree still contains a nest.

(b) An active nest tree may fall down or may become structurally incapable of supporting a bald eagle nest site. When this happens the nest resource site shall be considered active and shall be protected for an additional five (5) years only if the site contains suitable nesting sites. In this case, if a nesting resource site is not used during this five-year period, the site shall be considered abandoned and no protection will be required.

(c) The key components associated with a bald eagle nesting site are perching and fledging trees, replacement nest trees, and a forested buffer around the nest tree. Factors to consider when identifying key components:

(A) Actual observation data when available.

(B) Perching and fledging trees should be tall enough to provide maximum visibility of the surrounding area. Perching and fledging trees are often snags or decadent live trees with exposed, strong, lateral branches high in the crown.

(C) Replacement nest trees should provide maximum visibility of the surrounding terrain, and be large enough to support a bald eagle nest. Bald eagles prefer to nest in large, tall trees that are alive, with large limbs, broken tops, or irregular growth patterns with open structure.

(D) Areas of high winds may require that additional trees be retained to protect the active nest tree(s) and identified key components from damage.

(2) The operator shall provide the following protection measures when operating within or near a bald eagle nesting site:
- (a) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the trees from windthrow;
- (b) Retain the active nest tree.
- (c) Retain a forested buffer not less than 330 feet around the active nest tree as a key component that includes perching, fledging, and replacement tree(s).
- (d) During the critical period of use, operations shall be designed and conducted to not disturb bald eagles using the resource site:
  - (A) Except as provided in paragraph (B) of this subsection, during the critical period of use, operations shall not be permitted within one-quarter (1/4) mile of the active nest tree or perch trees. If the eagles have line-of-sight vision from these trees to the operation, the distance is one-half (1/2) mile.
  - (B) If the State Forester determines through review of the written plan that the operations will not cause the birds to flush from the trees identified in paragraph (A) of this section, then there is no conflict and the distance restrictions in paragraph (A) of this section may be modified.
  - (C) The critical period of use is January 1 through August 31. The specific critical period of use for individual nesting resource sites may be modified in writing by the State Forester depending upon the actual dates that bald eagles are present at the resource site and are susceptible to disturbance.

(3) Structural or temporal exceptions for the resource site are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Endangered Species Act.

629-665-0230
Bald Eagle Roosting Sites; Key Components; Protection Requirements; and Exceptions

(1) For bald eagle roosting sites, the resource site is the active roost trees, probable roost trees as identified by the State Forester, and all identified key components:
- (a) An active roosting site is one that has been used within the past 5 years for roosting by bald eagles. No protection is required for an abandoned bald eagle roosting site.
- (b) The key components associated with a bald eagle roosting site are staging trees, probable roost trees as identified by the State Forester, and a forested buffer around the roost trees. Factors to consider when identifying key components:
  - (A) Actual observation data when available.
  - (B) Roost sites frequently occur in mature forests. Roost trees are often significantly larger than the rest of the stand.
  - (C) Staging trees are often large, dead-top or dominant trees or snags where one or more eagles can perch and have direct access to the roosting site.
  - (D) The surrounding forested buffer must be adequate to maintain a suitable microclimate around the roost trees.
  - (E) Areas of high winds may require that additional trees be retained to protect the active roost tree(s) and identified key components from damage.

(2) The operator shall provide the following protection measures when operating within or near a bald eagle roosting site:
- (a) During and after forest operations, the resource site shall be retained and protected from damage. The operation shall be designed to protect the trees from windthrow.
- (b) Retain the active roost tree(s).
- (c) Retain a forested buffer not less than 300 feet around the outermost active roost trees as a key component that includes probable roost trees.
- (d) Retain staging trees.
- (e) During the critical period of use, operations shall be designed and conducted to not disturb bald eagles using the resource site:
  - (A) Except as provided in paragraph (B) of this subsection, during the critical period of use, operations shall not be permitted within one-quarter (1/4) mile of the active roost trees. If the eagles have line-of-sight vision from these trees to the operation, the distance is one-half (1/2) mile.

(B) If the State Forester determines through review of the written plan that the operations will not cause the birds to flush from trees identified in paragraph (A) of this subsection, then there is no conflict and the distance restrictions in paragraph (A) of this subsection may be modified.

(C) The critical period of use for bald eagle roosting sites in the Klamath Basin is October 31 through March 31. In other areas of Oregon the critical period of use is November 15 through March 15. The specific critical period of use for individual roosting resource sites may be modified in writing by the State Forester depending upon the actual dates that bald eagles are present at the resource site and are susceptible to disturbance.

(3) Structural or temporal exceptions for the resource site are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Endangered Species Act.

629-665-0240

Bald Eagle Foraging Perches; Key Components; Protection Requirements; and Exceptions

(1) For bald eagle foraging perches, the resource site is the active foraging perch. An active foraging perch is one that is habitually used by eagles as a vantage point while hunting. No protection is required for abandoned bald eagle foraging perches. The presence or absence of foraging perches within or near a foraging area shall be determined by the State Forester when the forester conducts an operation inspection. Factors to consider when identifying key components:

(a) Actual observation data when available.

(b) Bald eagles usually perch in the tallest trees on the edge of forest stands overlooking the hunting area. Snags and dead-top trees are often used.

(c) Areas of high winds may require that additional trees be retained to protect the active foraging perch from damage.

(2) The operator shall provide the following protection measures when operating near a bald eagle foraging perch:

(a) During and after forest operations, the foraging perch shall be retained and protected from damage. The operation shall be designed to protect the foraging perch from windthrow.

(b) During the critical period of use, operations shall be designed and conducted so they do not cause excessive disturbance to bald eagles using the foraging area. The critical period of use shall be determined on a site specific basis. The critical period of use varies for each bald eagle foraging area, depending on whether the foraging area is used by nesting, wintering, or migrating bald eagles.

(3) Temporal exceptions for the entire foraging areas shall not be permitted by the State Forester. Temporal protection is determined by evaluating the potential disturbance to the entire foraging area used by a breeding pair or wintering population of bald eagles. Disturbance at a single foraging perch in a foraging area may be determined by the State Forester to not cause a conflict. This evaluation shall be based on the number of alternative foraging perches in the bald eagle foraging area.

(4) Structural exceptions for an active foraging perch may be permitted if the State Forester determines that adequate replacement foraging perches will remain in the vicinity after completion of the forest operation.

Notes

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OREGON FOREST PRACTICES ACT

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OREGON FOREST PRACTICES ACT

(Generally)

527.610 Short title. ORS 527.610 to 527.770, 527.990 (1) and 527.992 are known as the Oregon Forest Practices Act.

527.620 Definitions for ORS 527.610 to 527.770.
As used in ORS 527.610 to 527.770, 527.990 and 527.992:

(1) "**Board**" means the State Board of Forestry.

(2) "**Cumulative effects**" means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions.

(3) "**DBH**" means the diameter at breast height which is measured as the width of a standing tree at four and one-half feet above the ground, on the uphill side.

(4) "**Edge of the roadway**" means:
- (a) For interstate highways, the fence.
- (b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of the shoulder.

(5) "**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; and
- (e) Disposal of slash.

(6) "**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.

(7) "**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.

(8) "**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.

(9) "**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.

(10) "**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.

(11) "**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.

(12) "**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.

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

(14) "**Single ownership**" means ownership by an individual, partnership, corporation, limited liability company, trust, holding company or other business entity, including the state or any political subdivision thereof. Single ownership includes ownership held under different names or titles where the same individual or individuals, or their heirs or assigns, are shareholders (other than those of public corporations whose stock is traded on the open market), partners, business trustees or officers, or otherwise have an interest in or are associated with each property.

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

(16) "**Suitable hardwood seedlings**" means any hardwood seedling that will eventually yield logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or other forest products.

(17) "**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.

(18) "**Visually sensitive corridor**" means forestland extending outward 150 feet, measured on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS 527.755, along both sides for the full length of the highway.

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

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

527.630 Policy; rules.

(1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians.

(2) It is recognized that operations on forestland are already subject to other laws and to regulations of other agencies which deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized that it is essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in planning and carrying out operations on forestlands.

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770 and 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclusive authority to develop

and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state agencies and local governments which are concerned with the forest environment.

(4) The board may adopt and enforce rules addressing scenic considerations only in accordance with ORS 527.755.

(5) The board shall adopt and enforce forest practice rules to reduce the risk of serious bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10). As used in this subsection, "rapidly moving landslide" has the meaning given in ORS 195.250.

(6) The State of Oregon should provide a stable regulatory environment to encourage investment in private forestlands.

527.640 Forest regions.

The State Board of Forestry shall establish a number of forest regions, but not less than three, necessary to achieve the purposes described in ORS 527.630.

527.650 Forest practice committees; members; qualifications; appointment; terms.

(1) The State Board of Forestry shall establish a forest practice committee for each forest region established pursuant to ORS 527.640. Each such committee shall consist of nine members, a majority of whom must reside in the region. Members of each committee shall be qualified by education or experience in natural resource management and not less than two-thirds of the members of each committee shall be private landowners, private timber owners or authorized representatives of such landowners or timber owners who regularly engage in operations.

(2) Members of forest practice committees shall be appointed by the board for three-year terms. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term. Each such committee shall select a chairperson from among its members. A staff member of the State Forestry Department shall be designated by the State Forester to serve as the secretary, without voting power, for each such committee.

527.660 Committees to review rules.

Each forest practice committee shall review proposed forest practice rules in order to assist the State Board of Forestry in developing rules appropriate to the forest conditions within its region. Committee recommendations are advisory only and the committees need not be consulted prior to the adoption of any forest practice rule.

527.665 Notice of reforestation requirements to be given in forestland transfers; effect of failure to notify; damages.

(1) In any transaction for the conveyance of an ownership interest in forestland, the transferor must provide to the transferee, prior to the date of execution of the conveyance, written notice of any reforestation requirements imposed upon the land pursuant to the Oregon Forest Practices Act.

(2) The failure of the transferor to comply with subsection (1) of this section does not invalidate an instrument of conveyance executed in the transaction. However, for any such failure the transferee may bring against the transferor an appropriate action to recover the costs of complying with the reforestation requirements. The court may award reasonable attorney fees to the prevailing party in an action brought under the provisions of this section.

527.670 Commencement of operations; rules; written plan; effect of plan; notice of chemical application; fees.

(1) The State Board of Forestry shall designate the types of operations for which notice shall be required under this section.

(2) The board shall determine by rule what types of operations require a written plan.

(3) The board's determination under subsection (2) of this section shall require a written plan for operations:

(a) Within one hundred feet of a stream determined by the State Forester to be used by fish or for domestic use, unless the board, by rule, provides that a written plan is not required because the proposed operation will be conducted according to a general vegetation retention prescription described in administrative rule, <u>or unless the operation will be conducted pursuant to a stewardship agreement entered into under ORS 541.423;</u> or

(b) Within three hundred feet of a resource site inventoried pursuant to ORS 527.710 (3)(a) <u>unless the operation will be conducted pursuant to a stewardship agreement entered into under ORS 541.423 and is consistent with the purposes and policies of any relevant Safe Harbor Agreements or</u>

Candidate Conservation Agreements entered into between the State of Oregon and agencies of the United States Government, pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.) and federal regulations.

(4) The distances set forth in subsection (3)(a) and (b) of this section are solely for the purpose of defining an area within which a hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules adopted pursuant to ORS 527.710 (3)(c).

(5) For the purpose of determining the distances set forth in subsection (3)(a) and (b) of this section "site" means the specific resource site and not any additional buffer area.

(6) An operator, timber owner or landowner, before commencing an operation, shall notify the State Forester. The notification shall be on forms provided by the State Forester and shall include the name and address of the operator, timber owner and landowner, the legal description of the operating area, and any other information considered by the State Forester to be necessary for the administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon receipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator, timber owner or landowner did not submit the notification. The State Forester shall send a copy of notices involving chemical applications to persons within 10 miles of the chemical application who hold downstream surface water rights pursuant to ORS chapter 537, if such a person has requested that notification in writing. The board shall adopt rules specifying the information to be contained in the notice. All information filed with the State Forester pertaining to chemical applications shall be public record.

(7) An operator, timber owner or landowner, whichever filed the original notification, shall notify the State Forester of any subsequent change in the information contained in the notification.

(8) Within three working days of receipt of a notice or a written plan filed under subsection (6) or (7) of this section, the State Forester shall send a copy of the notice or written plan to any person who requested of the State Forester in writing that the person be sent copies of notice and written plan and who has paid any applicable fee established by the State Forester for such service. The State Forester may establish a fee for sending copies of notices and written plans under this subsection not to exceed the actual and reasonable costs. In addition, the State Forester shall send a copy of the notification to the Department of Revenue and the county assessor for the county in which the operation is located, at times and in a manner determined through written cooperative agreement by the parties involved.

(9) Persons may submit written comments pertaining to the operation to the State Forester within 14 calendar days of the date the notice or written plan was filed with the State Forester under subsection (2), (6) or (7) of this section. Notwithstanding the provisions of this subsection, the State Forester may waive any waiting period for operations not requiring a written plan under subsection (3) of this section, except those operations involving aerial application of chemicals.

(10) If an operator, timber owner or landowner is required to submit a written plan of operations to the State Forester under subsection (3) of this section:

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

(b) The State Forester may not provide any comments concerning the written plan earlier than 14 calendar days following the date that the written plan was filed with the State Forester nor later than 21 calendar days following the date that the written plan was filed; and

(c) Provided that notice has been provided as required by subsection (6) of this section, the operation may commence on the date that the State Forester provides comments or, if no comments are provided within the time period established in paragraph (b) of this subsection, at any time after 21 calendar days following the date that the written plan was filed.

(11) (a) Comments provided by the State Forester, or by the board under ORS 527.700 (6), 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 or the board do not constitute an approval of the written plan or operation.

(b) If the State Forester or the board does not comment on a written plan, the failure to comment does not mean that 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.

(c) In the event that the State Forester or board 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 or board shall consider, but are not bound by, comments that the State Forester provided under this section or comments that the board provided under ORS 527.700.

(12) When the operation is required to have a written plan under subsection (3) of this section and comments have been timely filed under subsection (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:
  (a) Send a copy of the State Forester's review and comments, if any, to persons who submitted timely written comments under subsection (9) of this section pertaining to the operation; and
  (b) Send to the operator, timber owner and landowner a copy of all timely comments submitted under subsection (9) of this section.

527.674 Rules requiring approval of written plan prohibited.
The State Board of Forestry may not adopt or enforce a rule under ORS 527.610 to 527.770 that requires that the board or the State Forester approve written plans as a required precedent to conducting a forest practice or operation.

527.676 Leaving snags and downed logs in harvest type 2 or type 3 units; green trees to be left near certain streams.

(1) In order to contribute to the overall maintenance of wildlife, nutrient cycling, moisture retention and other resource benefits of retained wood, when a harvest type 2 unit exceeding 25 acres or harvest type 3 unit exceeding 25 acres occurs the operator shall leave an average, per acre harvested, at least:
  (a) Two snags or two green trees at least 30 feet in height and 11 inches DBH or larger, at least 50 percent of which are conifers; and
  (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that each comprise at least 10 cubic feet gross volume and are no less than six feet long. One downed conifer or suitable hardwood log of at least 20 cubic feet gross volume and no less than six feet long may count as two logs.

(2) In meeting the requirements of this section, the operator has the sole discretion to determine the location and distribution of wildlife leave trees, including the ability to leave snags, trees and logs in one or more clusters rather than distributed throughout the unit and, if specifically permitted by the State Board of Forestry by rule, to meet the wildlife leave tree requirements by counting snags, trees or logs otherwise required to be left in riparian management areas or resource sites listed in ORS 527.710, subject to:
  (a) Safety and fire hazard regulations;
  (b) Rules or other requirements relating to wildlife leave trees established by the State Board of Forestry or the State Forester; and
  (c) All other requirements pertaining to forest operations.

(3) In meeting the requirements of this section, the State Forester:
  (a) Shall consult with the operator concerning the selection of wildlife leave trees when the State Forester believes that retaining certain trees or groups of trees would provide increased benefits to wildlife.
  (b) May approve alternate plans submitted by the operator to meet the provisions of this section, including but not limited to waiving:
    (A) The requirements that at least 50 percent of wildlife leave trees be conifers, upon a showing that a site is being intensively managed for hardwood production; and
    (B) In whole or in part, the requirements of this section for one operation if an alternate plan provides for an equal or greater number of wildlife leave trees in another harvest type 2 or harvest type 3 operation, that the State Forester determines would achieve better overall benefits for wildlife.
  (c) May require, for operations adjacent to a fish-bearing or domestic use stream, in addition to trees otherwise required to be left in riparian management areas, up to 25 percent of the green trees required to be retained under this section to be left in or adjacent to the riparian management area of the stream.
  (d) May require by rule, for operations adjacent to a small, nonfish-bearing stream subject to rapidly moving landslides as defined in ORS 195.250, that available green trees and snags be left in or adjacent to the stream. The operator must leave available green trees and snags under this paragraph within an area that is 50 feet on each side of the stream and no more than 500 feet upstream from a riparian management area of a fish-bearing stream.

(4) When a harvest type 2 or harvest type 3 unit occurs adjacent to a prior harvest type 2 or harvest type 3 unit, resulting in a combined total contiguous acreage of harvest type 2 or harvest type 3 under single ownership exceeding 25 acres, the wildlife leave tree and downed log requirements of subsection (1) of this section apply to the combined total contiguous acreage.

527.680 Violation by operator; citation; order to cease violation; order to repair damage; temporary order where violation continuing; service on operator.

(1) Whenever the State Forester determines that an operator has committed a violation under ORS 527.990 (1), the State Forester may issue and serve a citation upon the operator or authorized representative. The State Forester shall cause a copy of the citation to be mailed or delivered to the timber owner and landowner. Whenever the State Forester determines that the landowner has failed to comply with the reforestation rules under ORS 527.710, the State Forester may issue and serve a citation upon the landowner or authorized representative. Each citation issued under this section shall specify the nature of the violation charged and any damage or unsatisfactory condition that has occurred as the result of such violation.

(2) Whenever a citation is served pursuant to subsection (1) of this section, the State Forester:

(a) Shall issue and serve upon the landowner or operator or authorized representative an order directing that the landowner or operator cease further violation. If the order is served upon an operator, the State Forester shall cause a copy of such order to be mailed or delivered to the timber owner and landowner; and

(b) May issue and serve an order upon the landowner or operator and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner, directing the landowner or operator, where practical and economically feasible, to make reasonable efforts to repair the damage or correct the unsatisfactory condition specified in the citation within a period specified by the State Forester.

(3) In the event the order issued under subsection (2)(a) of this section has not been complied with, and the violation specified in such order is resulting in continuing damage, the State Forester by temporary order, may direct the landowner or operator to cease any further activity in that portion of the operation that is resulting in such damage. Such temporary order shall be in effect until the date of the expiration of the period as prescribed in subsection (4) of this section or until the date that the violation ceases, whichever date occurs first.

(4) A temporary order issued under subsection (3) of this section shall be served upon the landowner or operator or authorized representative, and the State Forester shall cause a copy of such temporary order to be mailed or delivered to the operator, timber owner and landowner. If requested by the operator, timber owner or landowner, the State Board of Forestry, following the appeal procedures of ORS 527.700, must hold a hearing on the temporary order within five working days after the receipt by the board of the request. A temporary order issued and served pursuant to subsection (3) of this section shall remain in effect not more than five working days after such hearing unless the order is sooner affirmed, modified or revoked by the board.

(5) If a landowner or operator fails to comply with a final order issued under subsection (2)(b) of this section within the time specified in the order, or if the landowner or operator fails to comply with a final order imposing civil penalties for violation of any provision of the Oregon Forest Practices Act, the State Forester may issue an order that prohibits the affected landowner or operator from conducting any new operations on any forestland in this state until the landowner or operator has complied with the order to correct an unsatisfactory condition, make repair or pay the civil penalty, as the case may be, to the satisfaction of the State Forester.

527.683 Notice of violation.

(1) No civil penalty prescribed in ORS 527.992 shall be imposed until the person incurring the penalty has received notice in writing from the State Forester specifying the violation. Such notice is in addition to the notice required in ORS 183.745.

(2) The citation issued pursuant to ORS 527.680 (1) and the order issued pursuant to ORS 527.680 (2)(b) shall each constitute the notice required by subsection (1) of this section.

527.685 Civil penalty considerations; rules.

(1) The State Board of Forestry shall by rule establish the amount of civil penalty that may be imposed for a particular violation. Except as provided in subsection (5) of this section, no civil penalty shall exceed $5,000 per violation.

(2) In imposing a penalty authorized by this section, the State Forester may consider the following factors:
  (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
  (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest Practices Act.
  (c) The gravity and magnitude of the violation.
  (d) Whether the violation was repeated or continuous.
  (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.
  (f) The size and type of ownership of the operation.
  (g) Any relevant rule of the board.
  (h) The violator's cooperativeness and efforts to correct the violation.
(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board determines to be proper and consistent with the public benefit. Upon the request of the person incurring the penalty, the board shall consider evidence of the economic and financial condition of the person in determining whether a penalty shall be remitted or mitigated.
(4) The board, by rule, may delegate to the State Forester upon such conditions as deemed necessary, all or part of the authority of the board provided in subsection (3) of this section to assess, remit or mitigate civil penalties.
(5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745, the State Forester may impose a civil penalty in an amount equal to the estimated cost of reforesting lands pursuant to 527.690.

527.687 Civil penalty procedure.
(1) Subject to the notice provisions of ORS 527.683, any civil penalty under ORS 527.992 shall be imposed in the manner provided in ORS 183.745.
(2) In no case shall a hearing requested under ORS 183.745 be held less than 45 days from the date of service of the notice of penalty to allow the party to prepare testimony. The hearing shall be held not more than 180 days following issuance of the notice unless all parties agree on an extension.
(3) Hearings under this section shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.
(4) Except as provided in subsection (5) of this section, all civil penalties recovered under ORS 527.610 to 527.770, 527.990 and 527.992 shall be paid to the General Fund.
(5) Civil penalties recovered under ORS 527.685(5) shall be deposited in the State Forestry Department Account under ORS 526.060 and used, consistently with ORS 527.690, by the State Forester to reforest the land that is the subject of a violation of ORS 527.745 or rules for reforestation adopted pursuant to ORS 527.745. Civil penalties described in this subsection that exceed the costs of reforestation shall be paid to the General Fund.

527.690 Failure to comply with order to reforest or repair damage; estimate of cost of repair; notification; board authorization for repair; cost of repair as lien upon operator, timber owner or landowner.
(1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of damage or correction of an unsatisfactory condition, including compliance with reforestation requirements, and if the operator or landowner does not comply with the order within the period specified in such order and the order has not been appealed to the State Board of Forestry within 30 days, the State Forester based upon a determination by the forester of what action will best carry out the purposes of ORS 527.630 shall:
  (a) Maintain an action in the Circuit Court for Marion County or the circuit court for the county in which the violation occurred for an order requiring the landowner or operator to comply with the terms of the forester's order or to restrain violations thereof; or
  (b) Estimate the cost to repair the damage or the unsatisfactory condition as directed by the order and shall notify the operator, timber owner and landowner in writing of the amount of the estimate. Upon agreement of the operator, timber owner or the landowner to pay the cost, the State Forester may proceed to repair the damage or the unsatisfactory condition. In the event approval of the expenditure is not obtained within 30 days after notification to the operator, timber owner and landowner under this section, the State Forester shall present to the board the alleged violation, the estimate of the expenditure to repair the damage or unsatisfactory condition and the justification for the expenditure.

(2) The board shall review the matter presented to it pursuant to subsection (1) of this section and shall determine whether to authorize the State Forester to proceed to repair the damage or correct the unsatisfactory condition and the amount authorized for expenditure. The board shall afford the operator, timber owner or landowner the opportunity to appear before the board for the purpose of presenting facts pertaining to the alleged violation and the proposed expenditure.

(3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory condition, the State Forester shall proceed, either with forces of the State Forester or by contract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a complete account of direct expenditures incurred, and upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner. In no event shall the expenditures exceed the amount authorized by subsection (2) of this section. An itemized statement of the direct expenditures incurred by the State Forester, certified by the State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding authorized by this section. If the State Forester's action to repair the damage or correct the unsatisfactory condition arose from an operation for which a bond, cash deposit or other security was required under ORS 527.760, the State Forester shall retain any applicable portion of a cash deposit and the surety on the bond or holder of the other security deposit shall pay the amount of the bond or other security deposit to the State Forester upon demand. If the amount specified in the demand is not paid within 30 days following the demand, the Attorney General, upon request by the State Forester, shall institute proceedings to recover the amount specified in the demand.

(4) The expenditures in cases covered by this section, including cases where the amount collected on a bond, deposit or other security was not sufficient to cover authorized expenditures, shall constitute a general lien upon the real and personal property of the operator, timber owner and landowner within the county in which the damage occurred. A written notice of the lien, containing a statement of the demand, the description of the property upon which the expenditures were made and the name of the parties against whom the lien attaches, shall be certified under oath by the State Forester and filed in the office of the county clerk of the county or counties in which the expenditures were made within six months after the date of delivery of the itemized statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided in ORS chapter 88.

(5) All moneys recovered under this section shall be paid into the State Forestry Department Account.

527.700 Appeals from orders of State Forester; hearing procedure; rules; stay of operation.

(1) Any operator, timber owner or landowner affected by any 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 after issuance of the order. 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 the hearing unless all parties agree to an extension of the time limit.

(2) The State Board of Forestry may delegate to the administrative law judge the authority to issue final orders on matters under this section. Hearings provided under this section shall be conducted as contested case hearings under ORS 183.413 to 183.470. The board may establish such rules as it deems appropriate to carry out the provisions of this section. Appeals from final hearing orders under this section shall be provided in ORS 183.482, except that the comments of the board or the State Forester concerning a written plan are not reviewable orders under ORS 183.480.

(3) Any person adversely affected or aggrieved by an operation described in subsection (4) of this section may file a written request to the board for a hearing if the person submitted written comments pertaining to the operation within the time limits established under ORS 527.670 (9).

(4) A request for hearing may be filed under subsection (3) of this section only if a written plan was required pursuant to ORS 527.670 (3).

(5) A request for hearing filed under subsection (3) of this section shall be filed within 14 calendar days of the date the State Forester completed review of the written plan and issued any comments. Copies of the complete request shall be served, within the 14-day period, on the operator, timber owner and landowner. The request shall include:

(a) A copy of the written plan on which the person is requesting a hearing;

(b) A copy of the comments pertaining to the operation that were filed by the person requesting the hearing;

(c) A statement that shows the person is adversely affected or aggrieved by the operation and has an interest which is addressed by the Oregon Forest Practices Act or rules adopted thereunder; and

(d) A statement of facts that establishes that the operation is of the type described in ORS 527.670 (3).

(6) If the board finds that the person making the request meets the requirement of subsection (5)(c) of this section, the board shall set the matter for hearing within 21 calendar days after receipt of the request for hearing. The operator, timber owner and landowner shall be allowable parties to the hearing. The person requesting the hearing may raise, in the hearing, only those issues that the person raised in written comments filed under ORS 527.670 (9) relating to conformity with the rules of the board. The board shall issue its own comments, which may affirm, modify or rescind comments of the State Forester, if any, on the written plan within 45 days after the request for hearing was filed, unless all parties agree to an extension of the time limit. The comments of the board or of the State Forester concerning a written plan are not reviewable orders under ORS 183.480.

(7) The board may award reasonable attorney fees and expenses to each of the prevailing parties against any other party who the board finds presented a position without probable cause to believe the position was well-founded, or made a request primarily for a purpose other than to secure appropriate action by the board.

(8) (a) Upon the written request of a person requesting a hearing under subsection (3) of this section, a stay of the operation subject to the hearing may be granted upon a showing that:

(A) Commencement or continuation of the operation will constitute a violation of the rules of the board;

(B) The person requesting the stay will suffer irreparable injury if the stay is not granted; and

(C) The requirements of subsections (3), (4) and (5) of this section are met.

(b) If the board grants the stay, it shall require the person requesting the stay to give an undertaking which may be in the amount of the damages potentially resulting from the stay, but in any event shall not be less than $15,000. The board may impose other reasonable requirements pertaining to the grant of the stay. The board shall limit the effect of the stay to the specific geographic area or elements of the operation for which the person requesting the stay has demonstrated a violation of the rules and irreparable injury under paragraph (a) of this subsection.

(c) If the board determines in its comments that the written plan pertaining to the operation for which the stay was granted is likely to result in compliance with ORS 527.610 to 527.770 or the rules of the board, the board may award reasonable attorney fees and actual damages in favor of each of the prevailing parties, to the extent incurred by each, against the person requesting the stay.

(9) If the board rescinds or modifies the comments on the written plan as submitted by the State Forester pertaining to any operation, the board may award reasonable attorney fees and costs against the state in favor of each of the prevailing parties.

(10) As used in this section, “person” means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

527.710 Duties and powers of board; rules; inventory for resource protection; consultation with other agencies required.

(1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183, rules to be administered by the State Forester establishing standards for forest practices in each region or subregion.

(2) The rules shall ensure the continuous growing and harvesting of forest tree species. Consistent with ORS 527.630, the rules shall provide for the overall maintenance of the following resources:

(a) Air quality;

(b) Water resources, including but not limited to sources of domestic drinking water;

(c) Soil productivity; and

(d) Fish and wildlife.

(3) (a) In addition to its rulemaking responsibilities under subsection (2) of this section, the board shall collect and analyze the best available information and establish inventories of the following resource sites needing protection:

(A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by rule, by the State Fish and Wildlife Commission or are federally listed under the Endangered Species Act of 1973 as amended;

(B) Sensitive bird nesting, roosting and watering sites;

(C) Biological sites that are ecologically and scientifically significant; and

(D) Significant wetlands.

(b) The board shall determine whether forest practices would conflict with resource sites in the inventories required by paragraph (a) of this subsection. If the board determines that one or more

forest practices would conflict with resource sites in the inventory, the board shall consider the consequences of the conflicting uses and determine appropriate levels of protection.

(c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the policies of ORS 527.630, the board shall adopt rules appropriate to protect resource sites in the inventories required by paragraph (a) of this subsection.

(4) Before adopting rules under subsection (1) of this section, the board shall consult with other agencies of this state or any of its political subdivisions that have functions with respect to the purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and programs subject to consultation under this subsection include, but are not limited to:

(a) Air and water pollution programs administered by the Department of Environmental Quality under ORS chapters 468A and 468B and ORS 477.013 and 477.515 to 477.532;

(b) Mining operation programs administered by the Department of Geology and Mineral Industries under ORS 516.010 to 516.130 and ORS chapter 517;

(c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat improvement tax incentive programs administered by the State Department of Fish and Wildlife under ORS 272.060, 315.134, and ORS chapters 496, 498, 501, 506 and 509;

(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs administered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

(e) The programs administered by the Columbia River Gorge Commission under Public Law 99-663 and ORS 196.110 and 196.150;

(f) Removal and fill, natural heritage conservation and natural heritage conservation tax incentive programs administered by the State Land Board and the Department of State Lands under ORS 196.800 and 273.553 to 273.591;

(g) Federal Safe Drinking Water Act programs administered by the Department of Human Services under ORS 448.273 to 448.990;

(h) Natural heritage conservation programs administered by the Natural Heritage Advisory Council under ORS 273.553 to 273.591;

(i) Open space land tax incentive programs administered by cities and counties under ORS 308A.300 to 308A.330;

(j) Water resources programs administered by the Water Resources Department under ORS 536.220 to 536.540; and

(k) Pesticide control programs administered by the State Department of Agriculture under ORS chapter 634.

(5) In carrying out the provisions of subsection (4) of this section, the board shall consider and accommodate the rules and programs of other agencies to the extent deemed by the board to be appropriate and consistent with the purposes of ORS 527.630.

(6) The board shall adopt rules to meet the purposes of another agency's regulatory program where it is the intent of the board to administer the other agency's program on forestland and where the other agency concurs by rule. An operation performed in compliance with the board's rules shall be deemed to comply with the other agency's program.

(7) (a) The board may enter into cooperative agreements or contracts necessary in carrying out the purposes specified in ORS 527.630.

(b) The State Forestry Department shall enter into agreements with appropriate state agencies for joint monitoring of the effectiveness of forest practice rules in protecting forest resources and water quality.

(8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws 1991, the board determines that additional rules are necessary to protect forest resources pursuant to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity, fish and wildlife resources and watersheds. Such rules shall include a process for determining areas where adverse impacts from cumulative effects have occurred or are likely to occur, and may require that a written plan be submitted for harvests in such areas.

(9) (a) The State Forester, in cooperation with the State Department of Fish and Wildlife, shall identify streams for which restoration of habitat would be environmentally beneficial. The State Forester shall select as a priority those streams where restoration efforts will provide the greatest benefits to fish and wildlife, and to streambank and streambed stability.

(b) For those streams identified in paragraph (a) of this subsection, the State Forester shall encourage landowners to enter into cooperative agreements with appropriate state agencies for conduct of restoration activities.

(c) The board, in consultation with appropriate state agencies, shall study and identify methods for restoring or enhancing fish and wildlife populations through restoration and rehabilitation of sites beneficial to fish and wildlife.

(d) The board shall adopt rules to implement the findings of this subsection.

(10) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall adopt rules to reduce the risk of serious bodily injury or death caused by a rapidly moving landslide directly related to forest practices. The rules shall consider the exposure of the public to these safety risks and shall include appropriate practices designed to reduce the occurrence, timing or effects of rapidly moving landslides. As used in this subsection, "rapidly moving landslide" has the meaning given that term in ORS 195.250.

527.714 Types of rules; procedure; findings necessary; rule analysis.

(1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to 527.770 consists generally of the following three types of rules:

(a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to 527.770 that support but do not directly regulate standards of forest practices.

(b) Rules adopted to provide definitions or procedures for forest practices where the standards are set in statute.

(c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6), (8), (9), <u>and (10)</u> that grant broad discretion to the board and that set standards for forest practices not specifically addressed in statute.

(2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS 183.335, the board shall determine which type of rule described in subsection (1) of this section is being considered.

(3) If the board determines that a proposed rule is of the type described in subsection (1)(a) or (b) of this section, or if the proposed rule is designed only to clarify the meaning of rules already adopted or to make minor adjustments to rules already adopted that are of the type described in subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410 and is not subject to the provisions of this section.

(4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would change the standards for forest practices, the board shall describe in its rule the purpose of the rule and the level of protection that is desired.

(5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and the proposed rule would provide new or increased standards for forest practices, the board may adopt such a rule only after determining that the following facts exist and standards are met:

(a) If forest practices continue to be conducted under existing regulations, there is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710 (2) or (3) is likely, or in the case of rules proposed under ORS 527.710 (10), that there is a substantial risk of serious bodily injury or death;

(b) If the resource to be protected is a wildlife species, the scientific or biological status of a species or resource site to be protected by the proposed rule has been documented using best available information;

(c) The proposed rule reflects available scientific information, the results of relevant monitoring and, as appropriate, adequate field evaluation at representative locations in Oregon;

(d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices as a result of adoption of the proposed rule:

(A) Are to prevent harm or provide benefits to the resource or resource site for which protection is sought, or in the case of rules proposed under ORS 527.710 (10), to reduce risk of serious bodily injury or death; and

(B) Are directly related to the objective of the proposed rule and substantially advance its purpose;

(e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including nonregulatory 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; and

(f) The benefits to the resource, or in the case of rules proposed under ORS 527.710 (10), the benefits in reduction of risk of serious bodily injury or death, that would be achieved by adopting the rule are in proportion to the degree that existing practices of the landowners and timber owners, in the aggregate, are contributing to the overall resource concern that the proposed rule is intended to address.

(6) Nothing in subsection (5) of this section:
- (a) Requires the board to call witnesses;
- (b) Requires the board to allow cross-examination of witnesses;
- (c) Restricts ex parte communications with the board or requires the board to place statements of such communications on the record;
- (d) Requires verbatim transcripts of records of proceedings; or
- (e) Requires depositions, discovery or subpoenas.

(7) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would require new or increased standards for forest practices, as part of or in addition to the economic and fiscal impact statement required by ORS 183.335 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make available to the public a comprehensive analysis of the economic impact of the proposed rule. The analysis shall include, but is not limited to:
- (a) An estimate of the potential change in timber harvest as a result of the rule;
- (b) An estimate of the overall statewide economic impact, including a change in output, employment and income;
- (c) An estimate of the total economic impact on the forest products industry and common school and county forest trust land revenues, both regionally and statewide; and
- (d) Information derived from consultation with potentially affected landowners and timber owners and an assessment of the economic impact of the proposed rule under a wide variety of circumstances, including varying ownership sizes and the geographic location and terrain of a diverse subset of potentially affected forestland parcels.

(8) The provisions of this section do not apply to temporary rules adopted by the board.

Note: 527.714 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 527 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

527.715 Rules to establish standards and procedures. The State Board of Forestry shall establish, by rule, the standards and procedures to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, 527.620, 527.630, 527.660, 527.670, 527.683 to 527.724, 527.736 to 527.760 and 527.992.

527.721 Coordination with state and local agencies for review and comment on operations.
By rule or by cooperative agreement entered into following an opportunity for public comment before the State Board of Forestry, the board shall provide for coordination with appropriate state and local agencies regarding procedures to be followed for review and comment on individual forest operations.

527.722 Restrictions on local government adoption of rules regulating forest operations; exceptions.

(1) Notwithstanding any provisions of ORS chapters 195, 196, 197, 215 and 227, and except as provided in subsections (2), (3) and (4) of this section, no unit of local government shall adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate, subject to approval or in any other way affect forest practices on forestlands located outside of an acknowledged urban growth boundary.

(2) Nothing in subsection (1) of this section prohibits local governments from adopting and applying a comprehensive plan or land use regulation to forestland to allow, prohibit or regulate:
- (a) Forest practices on lands located within an acknowledged urban growth boundary;
- (b) Forest practices on lands located outside of an acknowledged urban growth boundary, and within the city limits as they exist on July 1, 1991, of a city with a population of 100,000 or more, for which an acknowledged exception to an agriculture or forestland goal has been taken;
- (c) The establishment or alteration of structures other than temporary on-site structures which are auxiliary to and used during the term of a particular forest operation;
- (d) The siting or alteration of dwellings;

(e) Physical alterations of the land, including but not limited to those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities, when such uses are not auxiliary to forest practices; or

(f) Partitions and subdivisions of the land.

(3) Nothing in subsection (2) of this section shall prohibit a local government from enforcing the provisions of ORS 455.310 to 455.715 and the rules adopted thereunder.

(4) Counties may prohibit, but in no other manner regulate, forest practices on forestlands:

(a) Located outside an acknowledged urban growth boundary; and

(b) For which an acknowledged exception to an agricultural or forest land goal has been taken.

(5) To ensure that all forest operations in this state are regulated to achieve protection of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon Forest Practices Act applies to forest operations inside any urban growth boundary except in areas where a local government has adopted land use regulations for forest practices. For purposes of this subsection, "land use regulations for forest practices" means local government regulations that are adopted for the specific purpose of directing how forest operations and practices may be conducted. These local regulations shall:

(a) Protect soil, air, water, fish and wildlife resources;

(b) Be acknowledged as in compliance with land use planning goals;

(c) Be developed through a public process;

(d) Be developed for the specific purpose of regulating forest practices; and

(e) Be developed in coordination with the State Forestry Department and with notice to the Department of Land Conservation and Development.

(6) To coordinate with local governments in the protection of soil, air, water, fish and wildlife resources, the State Forester shall provide local governments with a copy of the notice or written plan for a forest operation within any urban growth boundary. Local governments may review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

(7) The existence or adoption by local governments of a comprehensive plan policy or land use regulation regulating forest practices consistent with subsections (1) to (5) of this section shall relieve the State Forester of responsibility to administer the Oregon Forest Practices Act within the affected area.

(8) The Director of the Department of Land Conservation and Development shall provide the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such notices concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, prohibiting or regulating forest practices.

527.724 Forest operations to comply with air and water pollution control rules and standards; effect of violation.

Subject to ORS 527.765 and 527.770, any forest operations on forestlands within this state shall be conducted in full compliance with the rules and standards of the Environmental Quality Commission relating to air and water pollution control. In addition to all other remedies provided by law, any violation of those rules or standards shall be subject to all remedies and sanctions available under statute or rule to the Department of Environmental Quality or the Environmental Quality Commission.

527.730 Conversion of forestland to other uses.

Nothing in the Oregon Forest Practices Act shall prevent the conversion of forestland to any other use.

527.736 Forest practice standards for operations on public and private land; rules.

(1) The standards established in ORS 527.740 to 527.750 shall be administered by the State Forester as standards applying to all operations in the state, including those on forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the State Board of Forestry shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to implement the standards established in ORS 527.740 to 527.750. Except as provided in ORS 527.714, nothing in ORS 468B.100 to 468B.110, 477.562, 527.620, 527.670, 527.690, 527.710, 527.715, 527.722, 527.724 and 527.736 to 527.770 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all other regulations pertaining to forest practices under applicable state law.

(2) Nothing in ORS 527.740 to 527.750 is intended to apply to cutting of trees that is for growth enhancement treatments, as defined by the State Forester, such as thinning or precommercial thinning.

(3) The State Board of Forestry may modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527.755 for the purposes of a bona fide research project conducted by:
(a) A federal agency;
(b) Agencies of the executive department as defined in ORS 174.112;
(c) An educational institution; or
(d) A private landowner.
(4) The State Board of Forestry may agree as a term of a stewardship agreement entered into under ORS 541.423 to modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527,755.
(5) The State Board of Forestry may modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527,755 for the purpose of an operation for the planting, growing, managing or harvesting of hardwood timber, including but not limited to hybrid cottonwood, if:
(a) The timber is grown on land that has been prepared by intensive cultivation methods and is cleared of competing vegetation for at least three years after planting;
(b) The timber is harvested on a rotation cycle of more than 12 years and less than 20 years after planting; and
(c) The timber is subject to intensive agricultural practices, including but not limited to fertilization, cultivation, irrigation, insect control and disease control.

527.740 Harvest type 3 limitations; exceptions.
(1) No harvest type 3 unit within a single ownership shall exceed 120 acres in size, except as provided in ORS 527.750.
(2) No harvest type 3 unit shall be allowed within 300 feet of the perimeter of a prior harvest type 3 unit within a single ownership if the combined acreage of the harvest type 3 areas subject to regulation under the Oregon Forest Practices Act would exceed 120 acres in size, unless the prior harvest type 3 unit has been reforested as required by all applicable regulations and:
(a) At least the minimum tree stocking required by rule is established per acre; and either
(b) The resultant stand of trees has attained an average height of at least four feet; or
(c) At least 48 months have elapsed since the stand was created and it is “free to grow” as defined by the State Board of Forestry.
(3) Any acreage attributable to riparian areas or to resource sites listed in ORS 527.710 (3) that is located within a harvest unit shall not be counted in calculating the size of a harvest type 3 unit.
(4) The provisions of this section shall not apply when the land is being converted to managed conifers or managed hardwoods from brush or hardwood stands that contain less than 80 square feet of basal area per acre of trees 11 inches DBH or greater or when the harvest type 3 results from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State Forester determines was beyond the landowner's control and has substantially impaired productivity or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall be required for such conversion or harvest type 3 operations that exceed 120 acres in size.
(5) The provisions of this section do not apply to any operation where the operator demonstrates to the State Forester that:
(a) The trees are subject to a cutting right created by written contract prior to October 1, 1990, which provides that the trees must be paid for regardless of whether the trees are cut, or subject to a cutting right created by reservation in a deed prior to October 1, 1990; and
(b) If the provisions of this section were applied, the cutting right would expire before all the trees subject to the cutting right could reasonably be harvested.

527.745 Reforestation of certain harvest types; adoption of standards; rules.
(1) The State Board of Forestry shall adopt standards for the reforestation of harvest type 1 and harvest type 3. Unless the board makes the findings for alternate standards under subsection (2) of this section, the standards for the reforestation of harvest type 1 and harvest type 3 shall include the following:
(a) Reforestation, including site preparation, shall commence within 12 months after the completion of harvest and shall be completed by the end of the second planting season after the completion of harvest. By the end of the fifth growing season after planting or seeding, at least 200 healthy conifer or suitable hardwood seedlings or lesser number as permitted by the board by rule, shall be established per acre, well-distributed over the area, which are “free to grow” as defined by the board.

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(b) Landowners may submit plans for alternate practices that do not conform to the standards established under paragraph (a) of this subsection or the alternate standards adopted under subsection (2) of this section, including but not limited to variances in the time in which reforestation is to be commenced or completed or plans to reforest sites by natural reforestation. Such alternate plans may be approved if the State Forester determines that the plan will achieve equivalent or better regeneration results for the particular conditions of the site, or the plan carries out an authorized research project conducted by a public agency or educational institution.

(2) The board, by rule, may establish alternate standards for the reforestation of harvest type 1 and harvest type 3, in lieu of the standards established in subsection (1) of this section, but in no case can the board require the establishment of more than 200 healthy conifer or suitable hardwood seedlings per acre. Such alternate standards may be adopted upon finding that the alternate standards will better assure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes, consistent with sound management of soil, air, water, fish and wildlife resources based on one or more of the following findings:

(a) Alternate standards are warranted based on scientific data concerning biologically effective regeneration;

(b) Different standards are warranted for particular geographic areas of the state due to variations in climate, elevation, geology or other physical factors; or

(c) Different standards are warranted for different tree species, including hardwoods, and for different growing site conditions.

(3) Pursuant to ORS 527.710, the board may adopt definitions, procedures and further regulations to implement the standards established under subsection (1) of this section, without making the findings required in subsection (2) of this section, if those procedures or regulations are consistent with the standards established in subsection (1) of this section.

(4) The board shall encourage planting of disease and insect resistant species in sites infested with root pathogens or where planting of susceptible species would significantly facilitate the spread of a disease or insect pest and there are immune or more tolerant commercial species available which are adapted to the site.

(5) Notwithstanding subsections (1), (2) and (3) of this section, in order to remove potential disincentives to the conversion of underproducing stands, as defined by the board, or the salvage of stands that have been severely damaged by wildfire, insects, disease or other factors beyond the landowner's control, the State Forester may suspend the reforestation requirements for specific harvest type 1 or harvest type 3 units in order to take advantage of the Forest Resource Trust provisions, or other cost-share programs administered by the State Forester or where the State Forester is the primary technical adviser. Such suspension may occur only on an individual case basis, in writing, based on a determination by the State Forester that the cost of harvest preparation, harvest, severance and applicable income taxes, logging, site preparation, reforestation and any other measures necessary to establish a free to grow forest stand will likely exceed the gross revenues of the harvest. The board shall adopt rules implementing this subsection establishing the criteria for and duration of the suspension of the reforestation requirements.

527.750 Exceeding harvest type 3 size limitation; conditions; rules.

(1) Notwithstanding the requirements of ORS 527.740, a harvest type 3 unit within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved by the State Forester if all the requirements of this section and any additional requirements established by the State Board of Forestry are met. Proposed harvest type 3 units that are within 300 feet of the perimeter of a prior harvest type 3 unit, and that would result in a total combined harvest type 3 area under a single ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the additional requirements are met for the combined area. No harvest type 3 unit within a single ownership shall exceed 240 contiguous acres. No harvest type 3 unit shall be allowed within 300 feet of the perimeter of a prior harvest type 3 unit within a single ownership if the combined acreage of the areas subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless:

(a) The prior harvest type 3 unit has been reforested by all applicable regulations;

(b) At least the minimum tree stocking required by rule is established per acre; and

(A) The resultant stand of trees has attained an average height of at least four feet; or

(B) At least 48 months have elapsed since the stand was created and it is “free to grow” as defined by the board.

(2) The requirements of this section are in addition to all other requirements of the Oregon Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be applied in lieu of such other requirements only to the extent the requirements of this section are more stringent. Nothing in this section shall apply to operations conducted under ORS 527.740 (4) or (5).

(3) The board shall require that a plan for an alternate practice be submitted prior to approval of a harvest type 3 operation under this section. The board may establish by rule any additional standards applying to operations under this section.

(4) The State Forester shall approve the harvest type 3 operation if the proposed operation would provide better overall results in meeting the requirements and objectives of the Oregon Forest Practices Act.

(5) The board shall specify by rule the information to be submitted for approval of harvest type 3 operations under this section, including evidence of past satisfactory compliance with the Oregon Forest Practices Act.

527.755 Scenic highways; visually sensitive corridors; operations restricted; exemptions.

(1) The following highways are hereby designated as scenic highways for purposes of the Oregon Forest Practices Act:

(a) Interstate Highways 5, 84, 205, 405; and

(b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 35, 36, 38, 42, 58, 62, 66, 82, 97, 101, 126, 138, 140, 199, 230, 234 and 395.

(2) The purpose of designating scenic highways is to provide a limited mechanism that maintains roadside trees for the enjoyment of the motoring public while traveling through forestland, consistent with ORS 527.630, safety and other practical considerations.

(3) The State Board of Forestry, in consultation with the Department of Transportation, shall establish procedures and regulations as necessary to implement the requirements of subsections (4), (5) and (6) of this section, consistent with subsection (2) of this section, including provisions for alternate plans. Alternate plans that modify or waive the requirements of subsection (4), (5) or (6) of this section may be approved when, in the judgment of the State Forester, circumstances exist such as:

(a) Modification or waiver is necessary to maintain motorist safety, protect improvements such as dwellings and bridges, or protect forest health;

(b) Modification or waiver will provide additional scenic benefits to the motoring public, such as exposure of distant scenic vistas;

(c) Trees that are otherwise required to be retained will not be visible to motorists;

(d) The operation involves a change of land use that is inconsistent with maintaining a visually sensitive corridor; or

(e) The retention of timber in a visually sensitive corridor will result in severe economic hardship for the owner because all or nearly all of the owner's property is within the visually sensitive corridor.

(4) (a) For harvest operations within a visually sensitive corridor, at least 50 healthy trees of at least 11 inches DBH, or that measure at least 40 square feet in basal area, shall be temporarily left on each acre.

(b) Overstory trees initially required to be left under paragraph (a) of this subsection may be removed when the reproduction understory reaches an average height of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings or saplings required by the board for reforestation, by rule.

(c) Alternatively, when the adjacent stand, extending from 150 feet from the outermost edge of the roadway to 300 feet from the outermost edge of the roadway, has attained an average height of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings or saplings required by the board for reforestation, by rule, or at least 40 square feet of basal area per acre, no trees are required to be left in the visually sensitive corridor, or trees initially required to be left under paragraph (a) of this subsection may be removed. When harvests within the visually sensitive corridor are carried out under this paragraph, the adjacent stand, extending from 150 feet from the outermost edge of the roadway to 300 feet from the outermost edge of the roadway, shall not be reduced below the minimum number of stems per acre of free to grow seedlings or saplings at least 10 feet tall required by the board for reforestation, by rule, or below 40 square feet of basal area per acre until the adjacent visually sensitive corridor has been reforested as required under subsection (6) of this section and the stand has attained an average height of at least 10 feet and has at least the minimum number of stems per acre.

(5) Harvest areas within a visually sensitive corridor shall be cleared of major harvest debris within 30 days of the completion of the harvest, or within 60 days of the cessation of active harvesting activity on the site, regardless of whether the harvest operation is complete.

(6) Notwithstanding the time limits established in ORS 527.745 (1)(a), when harvesting within a visually sensitive corridor results in a harvest type 1 or harvest type 3, reforestation shall be completed by the end of the first planting season after the completion of the harvest. All other provisions of ORS 527.745 shall also apply to harvest type 1 or harvest type 3 within visually sensitive corridors.

(7) Landowners and operators shall not be liable for injury or damage caused by trees left within the visually sensitive corridor for purposes of fulfilling the requirements of this section, when carried out in compliance with the provisions of the Oregon Forest Practices Act.

(8) The following are exempt from this section:
- (a) Harvest on single ownerships less than five acres in size;
- (b) Harvest within an urban growth boundary, as defined in ORS 195.060; and
- (c) Harvest within zones designated for rural residential development pursuant to an exception adopted to the statewide land use planning goals under ORS 197.732.

527.760 Reforestation exemptions for land use changes.

(1) The State Board of Forestry shall review its rules governing changes in land use and adopt or amend rules as necessary to assure that only bona fide, established and continuously maintained changes from forest uses are provided an exemption from reforestation requirements. The board shall set specific time periods for the completion of land use conversions. Among other factors, the board shall condition exemptions from reforestation requirements upon:
- (a) Demonstrating the intended change in land use is authorized under local land use and zoning ordinances, including obtaining and maintaining all necessary land use or construction permits and approvals for the intended change in land use;
- (b) Demonstrating progress toward the change in land use within the time required for planting of trees, and substantial completion and continuous maintenance of the change in land use in a time certain;
- (c) Allowing an exemption for only the smallest land area necessary to carry out the change in land use, and requiring that additional land area within the harvest unit remains subject to all applicable reforestation requirements; and
- (d) Allowing an exemption only to the extent that the proposed land use is not compatible with the maintenance of forest cover.

(2) The board may require that, prior to commencing an operation where a change in land use is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State Forester in an amount determined by the State Forester sufficient to cover the cost of site preparation and reforestation for the area subject to an exemption from reforestation due to a change in land use, and shall require that provisions be made for the administration and collection on such bond or security deposit in the event that the change in land use is not established or continuously maintained within a time certain.

(3) Nothing in this section is intended to exempt any change in land use from, nor affect the applicability and administration of, any planning, zoning or permitting requirements provided under state or local laws or regulations.

527.765 Best management practices to maintain water quality; rules.

(1) The State Board of Forestry shall establish best management practices and other rules applying to forest practices as necessary to insure that to the maximum extent practicable nonpoint source discharges of pollutants resulting from forest operations on forestlands do not impair the achievement and maintenance of water quality standards established by the Environmental Quality Commission for the waters of the state. Such best management practices shall consist of forest practices rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the board in establishing best management practices shall include, where applicable, but not be limited to:
- (a) Beneficial uses of waters potentially impacted;
- (b) The effects of past forest practices on beneficial uses of water;
- (c) Appropriate practices employed by other forest managers;
- (d) Technical, economic and institutional feasibility; and
- (e) Natural variations in geomorphology and hydrology.

(2) The board shall consult with the Environmental Quality Commission in adoption and review of best management practices and other rules to address nonpoint source discharges of pollutants resulting from forest operations on forestlands.

(3) (a) Notwithstanding ORS 183.310 (8), upon written petition for rulemaking under ORS 183.390 of any interested person or agency, the board shall review the best management practices adopted pursuant to this section. In addition to all other requirements of law, the petition must allege with reasonable specificity that nonpoint source discharges of pollutants resulting from forest operations being conducted in accordance with the best management practices are a significant contributor to violations of such standards.

(b) Except as provided in paragraph (c) of this subsection, if the board determines that forest operations being conducted in accordance with the best management practices are neither significantly responsible for particular water quality standards not being met nor are a significant contributor to violations of such standards, the board shall issue an order dismissing the petition.

(c) If the petition for review of best management practices is made by the Environmental Quality Commission, the board shall not terminate the review without the concurrence of the commission, unless the board commences rulemaking in accordance with paragraph (e) of this subsection.

(d) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an order that includes findings regarding specific allegations in the petition and shall state the board's reasons for any conclusions to the contrary.

(e) If, pursuant to review, the board determines that best management practices should be reviewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the revised best management practices must be adopted not later than two years from the filing date of the petition for review unless the board, with concurrence of the Environmental Quality Commission, finds that special circumstances require additional time.

(f) Notwithstanding the time limitation established in paragraph (e) of this subsection, at the request of the Environmental Quality Commission, the board shall take action as quickly as practicable to prevent significant damage to beneficial uses identified by the commission while the board is revising its best management practices and rules as provided for in this section.

527.770 Good faith compliance with best management practices not violation of water quality standards; subsequent enforcement of standards.

A forest operator conducting, or in good faith proposing to conduct, operations in accordance with best management practices currently in effect shall not be considered in violation of any water quality standards. When the State Board of Forestry adopts new best management practices and other rules applying to forest operations, such rules shall apply to all current or proposed forest operations upon their effective dates. However, nothing in this section prevents enforcement of water quality standards against a forest operator conducting operations after the time provided in ORS 527.765 (3)(e) for adoption of revised best management practices if the board either has not adopted revised management practices or has not made a finding that such revised best management practices are not required.

527.780 Exemption from liability for trees or debris left on property.

(1) A landowner is not liable in tort for any personal injury, death or property damage that arises out of the leaving of trees and other debris on the property of the landowner under the provisions of ORS 527.610 to 527.770, under any rules adopted pursuant to ORS 527.610 to 527.770, or under any other law or rule requiring trees and debris to be left upon property after logging or other activity on the land.

(2) The limitation on liability provided by this section applies to any injury, death or damage arising out of wildfire, erosion, flooding, diversion of waters, damage to public improvements and any other injury, death or damage caused by trees or debris left by the landowner.

(3) The limitation on liability provided by this section does not apply if the injury, death or damage was caused by the intentional tort of the landowner or by the gross negligence of the landowner. As used in this subsection, “gross negligence” means negligence that is materially greater than the mere absence of reasonable care under the circumstances, and that is characterized by indifference to or reckless disregard of the rights of others.

(4) The limitation on liability provided by this section is in addition to any limitation on liability provided under ORS 105.672 to 105.696.

(5) The limitation on liability provided by this section does not apply to any liability established by the provisions of ORS chapter 477.

527.785 Exemption from liability for large woody debris left on property.

(1) A landowner is not liable in tort for any personal injury, death or property damage that arises out of the leaving of large woody debris on the property of the landowner under the provisions of ORS 527.610 to 527.770, under any rules adopted pursuant to ORS 527.610 to 527.770, or under any other law or rule requiring trees and large woody debris to be left upon property after logging or other activity on the land.

(2) The limitation on liability provided by this section applies to any injury, death or damage arising out of wildfire, erosion, flooding, diversion of waters, damage to public improvements and any other injury, death or damage caused by the large woody debris left by the landowner.

(3) The limitation on liability provided by this section does not apply if the injury, death or damage was caused by the intentional tort of the landowner or by the gross negligence of the landowner. As used in this subsection, "gross negligence" means negligence that is materially greater than the mere absence of reasonable care under the circumstances, and that is characterized by indifference to or reckless disregard of the rights of others.

(4) The limitation on liability provided by this section is in addition to any limitation on liability provided under ORS 105.672 to 105.696.

(5) The limitation on liability provided by this section does not apply to any liability established by the provisions of ORS chapter 477.

PENALTIES

527.990 Criminal penalties.

(1) Subject to ORS 153.022, violation of ORS 527.670, 527.676, 527.740, 527.750 or 527.755, or any rule promulgated under ORS 527.710 is punishable, upon conviction, as a misdemeanor. Each day of operation in violation of an order issued under ORS 527.680 (3) shall be deemed to be a separate offense.

(2) Violation of ORS 527.260 (1) is a misdemeanor. Violation of ORS 527.260 is punishable, upon conviction, by a fine of not more than $250 or by imprisonment in the county jail for not more than 60 days, or both.

527.992 Civil penalties.

(1) In addition to any other penalty provided by law, any person who fails to comply with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:
   - (a) The requirements of ORS 527.670, 527.676, 527.740, 527.750 or 527.755.
   - (b) The terms or conditions of any order of the State Forester issued in accordance with ORS 527.680.
   - (c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS 527.710.
   - (d) Any term or condition of a written waiver, or prior approval granted by the State Forester pursuant to the rules adopted under ORS 527.710.

(2) Imposition or payment of a civil penalty under this section shall not be a bar to actions alleging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover an amount based on the gain resulting from individual or corporate criminal violations.

Notes

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INFORMATION

For more information about the Oregon Forest Practices Act or the Forest Practice Rules, please contact your local Oregon Department of Forestry district office listed below or the headquarters office at 2600 State Street, Salem, Oregon 97310. (503) 945-7470.

Eastern Oregon

3501 East 3rd (PO Box 670), Prineville 97754 ..... (541) 447-5658
3701 West 13th, The Dalles 97058 ..... (541) 296-4626
400 NW 9th (PO Box 546), John Day 97845 ..... (541) 575-1139
3200 DeLap Road, Klamath Falls 97601 ..... (541) 883-5681
2290 North 4th Street, Lakeview 97630 ..... (541) 947-3311
611 20th Street, LaGrande 97850 ..... (541) 963-3168
1055 Airport Road, Pendleton 97801 ..... (541) 276-3491
802 West Hwy 82, Wallowa 97885 ..... (541) 886-2881

Northwest Oregon

801 Gales Creek Road, Forest Grove 97116 ..... (503) 357-2191
92219 Hwy 202, Astoria 97103 ..... (503) 325-5451
405 E Street, Columbia City 97018 ..... (503) 397-2636
5005 East 3rd Street, Tillamook 97141 ..... (503) 842-2545
14995 South Hwy 211, Molalla 97038 ..... (503) 829-2216
22965 North Fork Road SE, Lyons 97358 ..... (503) 859-2151
24533 Alsea Highway, Philomath 97370 ..... (541) 929-3266
825 Oak Villa Road, Dallas 97338 ..... (503) 623-8146
763 NW Forestry Road, Toledo 97391 ..... (541) 336-2273

Southern Oregon

1758 NE Airport Road, Roseburg 97470 ..... (541) 440-3412
63612 Fifth Road, Coos Bay 97420 ..... (541) 267-4136
4690 Highway 20, Sweet Home 97386 ..... (541) 367-6108
3150 Main Street, Springfield 97478 ..... (541) 726-3588
87950 Territorial Highway (PO Box 157), Veneta 97487 ..... (541) 935-2283
2660 Kingwood (PO Box 460), Florence 97439 ..... (541) 997-8713
5286 Table Rock Road, Central Point 97502 ..... (541) 664-3328
5375 Monument Drive, Grants Pass 97526 ..... (541) 474-3152

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