

Agenda Item No.:	7
Work Plan:	Forest Resources Division
Topic:	Implementing Legislative Direction
Presentation Title:	Adoption of Post-disturbance Harvest Rules
Date of Presentation:	September 4, 2024
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SUMMARY

In January 2023, the Board initiated post-disturbance harvest rulemaking as directed by Senate Bill 1501 (2022) and in February 2024 directed the Oregon Department of Forestry (Department) to file a Notice of Proposed Rulemaking. This agenda item requests the Board adopt proposed post-disturbance harvest rules.

CONTEXT

In 2020, conservation and forest industry groups offered to revise the Forest Practices Act (FPA) and forest practice rules through a memorandum of understanding to include mediated discussions, known as the Private Forest Accord (PFA). Later that year, the Legislature passed [SB 1602](#) which set helicopter pesticide application requirements and required the Governor to facilitate mediated sessions between conservation and forest industry groups. As a product of this collaborative process, the [2022 PFA Report](#) was drafted and released by an author group comprised of representatives from those discussions. During the 2022 Legislative Session, [SB 1501](#) and [SB 1502](#) passed making substantial changes to the FPA and requiring the Board to incorporate the recommendations of the PFA Report into the forest practice rules through the adoption of a single rule package to support the development of the PFA habitat conservation plan (HCP). In addition, the SB 1501 (2022) prescribed two additional rulemaking efforts regarding tethered logging and post-disturbance harvest.

BACKGROUND

The Board must complete post-disturbance harvest rulemaking no later than November 30, 2025. The provisions of the Post-Disturbance Harvest Rules will be included in the PFA HCP along with the rest of the forest practice rules where they will be evaluated as a package by the federal services. Oregon Revised Statute [\(ORS\) 527.710](#) grants the Board authority to adopt forest practice rules and [ORS 527.714](#) establishes the procedures the Board must follow when adopting such rules. At the January 4, 2023, board meeting, the Board directed the Department to initiate rulemaking on post-disturbance harvest activities and to complete an analysis of the factors in ORS 527.714. As a result, and consistent with the PFA Report, the Department began a literature review and the drafting of Oregon Administrative Rules (OARs) to provide the Board with the information needed to satisfy the FPA rulemaking procedure.

At the February 23, 2024, special board meeting, the Department presented the “[Literature Review: Post-Disturbance Harvest](#)” and the “[Post-Disturbance Harvest Draft Rules](#)” to the Board for consideration as well as an overview of the rulemaking procedure. At this meeting, the Board made the following determinations:

- Proposed OAR 629-643-0000 is an ORS 527.714 Type 1(c) rule, and the proposed changes only make minor adjustments to rules already adopted.
- Proposed OAR 629-643-0300 is an ORS 527.714 Type 1(c) rule that would change the standards for forest practices.

- Relative to OAR 629-643-0300;
 - There is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710(2) or (3) is likely if forest practices continue under existing rule.
 - The proposed rule reflects available scientific information and, as appropriate, the results of relevant monitoring and adequate field evaluation at representative locations in Oregon.
 - The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices are to prevent harm or provide benefit to the protected resource and are directly related to the objective of the proposed rule and materially advance its purpose.
 - The availability, effectiveness and feasibility of alternatives to the proposed rule, including non-regulatory alternatives were considered, and the alternative chosen is the least burdensome to landowners and timber owners in the aggregate while still achieving the desired level of protection.

The Board also directed the Department to complete and make available an economic analysis that satisfies the requirements of ORS 527.714(8) and file a Notice of Proposed Rulemaking.

ANALYSIS

Since the February 2024 direction from the Board, the Department has been actively engaged in rulemaking efforts with key activities captured below.

- Prepared and posted the [Analysis of the Estimated Economic Impact of Proposed OAR 629-643-0300](#).
- Filed a [Notice of Proposed Rulemaking](#), completed notifications and conducted a rules hearing.
- Engaged in intentional communication efforts with a variety of stakeholders including but not limited to other government entities impacted by forest operations, Regional Forest Practice Committees, the Committee for Family Forestlands, department field staff, and the public.
- Reviewed and considered twenty-two (22) written and eleven (11) oral public comments received in response to the Notice of Proposed Rulemaking which are summarized in Attachment 2.

RECOMMENDATION

After review and consideration of public comment and in consideration of legislative direction and PFA Author intent, the Department recommends the Board adopt the “Post-Disturbance Harvest Rules” as they are presented in Attachment 1.

NEXT STEPS

If the Board adopts the recommendation, the Department will file the rule action with the Secretary of State’s Office.

ATTACHMENTS

- 1) Post-Disturbance Harvest Rules
- 2) Public Comment on Draft Post-Disturbance Harvest Rules