

# 2008 Supplement to Oregon's Forest Protection Laws – An Illustrated Manual

(October 2, 2008 revision)

This supplement highlights and describes important changes in the Oregon Forest Practices Act and Rules (FPAR) and their administration since the Illustrated Manual was published in 2002. From their inception in 1971-72, The FPAR have been updated frequently as our knowledge, experience and concerns about forest resources and operations have evolved.

This 2008 supplement begins with a brief summary of the significant FPAR changes since 2002, and follows with more thorough descriptions of these changes and how they compare with what the Manual says. Although this supplement was relatively current and comprehensive when printed, always check with the Oregon Department of Forestry (ODF) to be sure you have the latest and most detailed information to help you comply with the FPAR to protect Oregon's valuable forest resources.

---

## ***Major changes that affect all or many plans for forest operations:***

Stewardship Foresters of the ODF administer and enforce the requirements of the FPAR. These employees formerly were called Forest Practices Foresters (FPFs).

Prior approval from ODF is no longer needed for most operations that require a written plan, but the ODF may provide comments on the plan to help landowners and operators comply with the FPAR. Plans for an alternate practice continue to require written approval from ODF.

ODF comments on operations that require a written plan under Oregon Revised Statutes (ORS) are issued no sooner than 14 days, nor later than 21 days, after the plan is filed. Other operations that require a written plan under Oregon Administrative Rules (OAR) have a 14-day review period, which can be waived by ODF.

Civil penalties are a key deterrent in FPAR enforcement, with behavior modification to prevent resource damage as a primary focus in penalty administration.

## ***Other important changes that may affect plans for forest operations in some specific situations:***

Type F streams with an artificial barrier to upstream fish use are now classified as Type F beyond this point up to the first natural barrier to fish use. The Type F stream protection requirements also apply to such sections even if there is no current fish use or if a fish survey has not been conducted.

Large wood placement to improve stream habitat and increase allowable riparian timber harvest levels (“active management” option) should favor naturally stable wood (i.e., no artificial anchoring). Such wood placement also normally no longer requires a US Army Corps of Engineers permit if there is ODF oversight through a required written plan that meets specific guidelines.

Wet weather road use requires durable surfacing or other measures that will resist deep rutting or mud layers on road segments that drain directly to streams. Active road use must stop if runoff from such conditions visibly increases the turbidity of a Type F or D stream.

Operations in landslide-prone terrain are carefully screened to address concerns for public safety. Written plans and unique restrictions on timber harvest and road construction may be required where a significant public safety risk is identified.

Small, Type N streams prone to rapidly moving landslides require some wildlife trees and snags to be left within 50 feet of the stream, if over 25 acres of the area are clearcut. These are not additional leave trees but rather direct the specific location of some of the leave trees already required for wildlife and stream protection.

---

## **As with all laws, the details are important!**

*In many cases “What the manual says” remains generally accurate and useful, but some important details or areas of emphasis have changed, and are now “What you need to know.”*

---

### Stewardship Foresters

*What the manual says*

Forest Practices Foresters, or FPFs, are mentioned throughout the manual, including several times in the initial section on “How to comply with the Oregon Forest Practices Act” (page 8). When the manual was printed, Forest Practices Forester was the title of the Oregon Department of Forestry (ODF) employees primarily responsible for direct administration and enforcement of the Forest Practices Act and Rules (FPAR).

*What you need to know*

Stewardship Forester (SF) is the updated title for ODF personnel who administer the FPAR. In addition to local FPAR administration, most SFs now provide private landowners with technical assistance for forest resource management. The title change thus reflects this broader work responsibility, plus the fact that the primary goal of the FPAR is good stewardship of forest resources.

Your local SF is your key ODF contact and information source for the FPAR as it relates to forest operations you are planning. However, keep in mind that your SF also can provide technical guidance and other help for managing forest resources, including identifying and applying for financial assistance (cost-sharing, tax credits, grants, etc.).

### Written Plans, Approval, & Comments

#### *What the manual says*

Throughout the manual (i.e., six major sections) there are many statements highlighting the need for ODF “(prior) approval” of plans that involve some specific types of forest operations. These discussions cover many different activities and situations that, in most cases, require a written plan in addition to the basic “Notification of Operations.”

#### *What you need to know*

The FPAR was not designed as a “permit” program, and previous requirements for agency “approval” raised substantial confusion and legal issues because permit programs often feature such approvals. The Oregon Legislature and the Board of Forestry addressed these problems by eliminating the formal approval requirements in the FPAR, although careful review of written plans continues.

Elimination of the approval process does not fundamentally change the need for you to carefully plan your forest operations, including filing a written plan when required to help protect important resources. To be considered complete, there are several types of specific information that must be included in all written plans, and some situations may require even more details.

For written plans required under Oregon Revised Statutes (e.g., forest operations within 100 feet of a Type F or D stream), the ODF must contact the filer about the plan within 14 to 21 days. Written plans required under Oregon Administrative Rules have a 14-day review period that can be waived by ODF. Feedback from ODF on written plans often includes specific comments that can help landowners and operators meet both the resource protection objectives and the legal responsibilities of the FPAR.

Note: Plans for an alternate practice continue to require written approval from ODF.

### Penalties & Administration

### *What the manual says*

The manual briefly states that civil and criminal penalties may result from violations of the FPAR. Several examples of FPAR violations also are mentioned elsewhere in the manual.

### *What you need to know*

Although criminal penalties remain an option for the most serious offenses, civil penalties (e.g., fines of \$25 to \$5000 for each specific violation) are the primary means for discouraging violations of the FPAR. In addition, the ODF administers the civil penalty program with an emphasis on modifying behavior to prevent resource damage. Where a required protective practice is absent but corrective action still can be taken to prevent damage or otherwise address the problem, an SF may issue a written statement of unsatisfactory condition seeking damage prevention.

In some cases, measures for damage mitigation or resource enhancement may be substituted for all or part of a civil penalty assessment. If there is a disagreement about a citation or penalty, specific procedures (“Central Hearing Process”) and other administrative steps are followed to clarify the facts and resolve the dispute.

---

## Identifying & Protecting Type F Streams

### *What the manual says*

Many of the FPAR requirements for stream protection vary with stream type, size, and geographic location. The manual specifically states that “Type F streams have fish.”

### *What you need to know*

ODF now classifies all streams as Type F up to the first natural barrier (usually a waterfall or steep chute) or to where no fish are found with a fish use survey. Some Type F streams have an artificial barrier (typically an older culvert installation that is not “fish friendly”) that prevents upstream fish use. This formerly resulted in a Type N or D classification upstream beyond the barrier. Now, even without current fish use, the upstream section where fish would be if the barrier was absent is classified as Type F. In addition, where fish use surveys have not been conducted, and regardless of any artificial barriers, ODF now classifies all streams as Type F up to the first natural barrier. A landowner or operator also may request an agency fish use survey, or conduct their own using specific guidelines, in locations where fish surveys have not been conducted.

Standard FPAR protection requirements for Type F streams (e.g., retaining some riparian trees and other vegetation) apply to such reclassified sections above artificial barriers. When an older structure on a Type F stream is repaired or replaced, the FPAR require that the new installation allow for fish passage. Thus, stream sections above current barriers are likely to be repopulated with fish over time, and Type F stream protection measures applied now will help maintain or improve the habitat they will occupy eventually. Exceptions to such stream reclassification and protection requirements may be granted if the artificial barrier is expected to persist for a long time after current operations, preventing fish re-establishment.

### Placing Wood in Streams

#### *What the manual says*

In exchange for stream improvement work (e.g., placing wood in the stream channel) described in a written plan, more timber can be harvested near Type F streams than is normally allowed.

#### *What you need to know*

The allowance for additional riparian timber harvest requires that the wood used for stream improvement meet acceptable length and diameter standards for the size and expected high flows of the stream. The placement guidelines favor relatively stable wood that can reconfigure with natural stream flows, rather than engineered and anchored structures.

Although not a FPAR change, an interagency agreement now exempts placement of large wood in forest streams from requiring a US Army Corps of Engineers permit. In most cases, such wood placement will require only ODF notification and written plans that meet ODF and Oregon Department of Fish and Wildlife (ODFW) standards outlined in "A Guide to Placing Large Wood in Streams" (May 1995). This permit exemption can make it easier to integrate wood placement work into active logging operations when the needed equipment and labor are readily available.

### Using Roads in Wet Weather

#### *What the manual says*

A durable surface (quality rock, etc.) is needed for wet season road use to avoid serious rutting and muddy runoff that can impact water quality. In addition, in eastern Oregon snow plowing is needed to promote a hard, frozen road surface during winter use and effective drainage during spring melt.

#### *What you need to know*

Active road use must cease where there are deep ruts or mud that creates runoff from that road segment that causes a visible increase in the turbidity (i.e., muddiness) of nearby Type F or Type D streams. Durable surfacing or other effective measures are needed to avoid such conditions with roads used for log hauling during wet periods. For roads in eastern Oregon there are no further FPAR requirements beyond these directives, although ODF has developed some related guidance about road use and thawing periods.

### Landslide-prone Terrain

#### *What the manual says*

A detailed section of the manual describes and illustrates locations and problems where rapidly moving landslides may occur on forest lands. Some specific requirements and restrictions for forest landowners and operators also are discussed.

#### *What you need to know*

Detailed rules and guidance apply to forest operations in areas prone to shallow, rapidly moving landslides. Of primary concern is public safety and thus a key step is ODF screening of operations that include high landslide hazard locations that may affect exposed populations. Such locations include steep (> 75 to 80 percent) slopes or steep (> 65 to 70 percent) headwalls, although field inspections may reveal hazardous areas with lesser slopes. With additional site-specific information (sometimes including a required geotechnical assessment), landslide impact ratings and public safety risk levels are identified by ODF.

Depending on the downslope public safety risk level, timber harvesting or road construction may be significantly restricted in high landslide hazard locations and along the likely depositional reaches of debris torrent-prone streams. For example, where there is an intermediate or substantial downslope safety risk, no harvest is allowed on upslope high hazard locations. Written plans are required for all timber harvesting or road construction operations with intermediate or substantial downslope safety risk, including a geotechnical report for some situations.

Another concern in areas of shallow, rapidly moving landslides is their role in adding desirable woody debris for fish habitat downstream. Some trees thus must be retained within 50 feet on both sides of the lower portion (i.e., 500 upstream of a Type F stream) of small Type N Streams subject to such landslides (as identified by ODF). This does not require landowners to leave more trees in harvest units but rather directs the streamside location of the 2 green trees and 2 snags per acre that already must be retained as wildlife trees in clearcut (and some overstory removal) areas over 25 acres.

---

*Updated ODF contact and other Information (changes highlighted in **bold**):*

Oregon Dept. of Forestry (state headquarters), 2600 State Street, Salem, 97310

Phone: **503-945-7200**; Fax: 503-945-7212; TTY: 800-437-4490

Web site: <http://egov.oregon.gov/ODF/>

E-mail: [information@odf.state.or.us](mailto:information@odf.state.or.us)

Note: Recent changes in the ODF Forest Protection Districts and local offices have altered some of the map and contact information on page 9 of the Illustrated Manual.

Sisters Sub-Unit, **114 W Washington**, Sisters, 97759, (541) 549-2731

Baker Sub-Unit, 2995 Hughes Lane, Baker City, 97814, (541) **523-5831**

Tillamook District, **5005 3<sup>rd</sup> Street**, Tillamook, 97141, (503) 842-2545

**Molalla Unit**, 14995 S Highway 211, Molalla, 97038, (503) 829-2216

**North Cascade District**, 22965 North Fork Road SE, Lyons, 97358, (503) 829-2216

**South Cascade District**, 3150 Main Street, Springfield, OR 97478, (541) 726-3588

**Sweet Home Unit**, 4690 Highway 20, Sweet Home, 97386, (541) 367-6108

**Roseburg Unit**, 1758 NE Airport Road, Roseburg, 97470, (541) 440-3412

Florence Unit, **2660 Kingwood Street**, Florence, 97439, (541) 997-8713

ODF Forest Rules and Laws web page:

<http://egov.oregon.gov/ODF/lawsrules.shtml>

ODF Private Forests Resources (publications, etc.) web page:

[http://egov.oregon.gov/ODF/PRIVATE\\_FORESTS/PCFPubIndex.shtml](http://egov.oregon.gov/ODF/PRIVATE_FORESTS/PCFPubIndex.shtml)

---