

**DEPARTMENT OF FORESTRY**  
**FOREST LAND MANAGEMENT**  
**DIVISION 22**  
**FOREST RESOURCE TRUST**

**GENERAL PROVISIONS**

**629-022-0030**

**Purpose**

The Forest Resource Trust programs provides financial, technical and related assistance to nonindustrial private and other qualified private and local government forestland owners to establish forest stands and improve management of forestlands for timber production, wildlife, water quality and other environmental purposes.

Stat. Auth.: ORS 526.700 to ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

**629-022-0040**

**Definitions**

As used in the Forest Resource Trust rules, unless the context requires otherwise:

(1) "Actual trust cost" means the portion of incurred costs paid by the Trust.

(2+) "Adequately stocked" means the number and size of the trees growing within a forest stand meets the standards determined by the State Forester in OAR 629-022-0390.

(3) "Approved consulting services" means services to be provided by a resource management professional— approved by the State Forester as specified in a Forest Resource Trust loan program contract or cost-share agreement.

(4) "Approved practices" means the schedule and manner of forest practices and related materials and supplies approved by the State Forester to establish forest stands or for the improved management of forestlands as specified in a Forest Resource Trust contract or cost-share agreement.

(5) "Budgeted cost" means the expected cost of an approved practice or an approved consulting service as specified in a Forest Resource Trust contract or cost-share agreement.

(6) "Carbon offsets" means credits registered or used, transferred or sold to comply with air quality or other greenhouse gas mitigation measures for the purpose of compensating for emissions of carbon dioxide from other sources such as the burning of fossil fuels for energy production. Carbon offsets are not considered to be a forest product as defined in OAR 629-22-040(7).

(7) A catastrophe means an event or circumstance beyond the landowner's control, resulting in all or part of a forest stand being incapable of producing harvest revenues to make repayment of trust funds as described in OAR 629-022- 0300.

~~(2) "Contract" means the Forest Resource Trust Contract that is signed by the State Forester and the landowner.~~

~~(83) "Conversion" means an operation conducted on underproducing forestland 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.~~

(9) "Cost-share agreement" means the Forest Resource Trust agreement that is signed by the State Forester and the landowner as the means to receive financial and technical assistance under the Forest Resource Trust's cost-share program.

(10) "Direct cost payment" means the disbursement of Forest Resource Trust funds as a direct payment for up to 100 percent of the incurred cost of an approved practice or approved consulting service as specified in a loan program contract. Unless otherwise approved by the landowner, direct cost payments are made in the form of a two-party check payable jointly to landowner and to either 1) a provider of services or a provider of supplies as payment for the completion of approved practices conducted to the satisfaction of the State Forester or 2) a resource management professional for the completion of approved consulting services performed to the satisfaction of the State Forester.

(114) "Environmental restoration" means a practice that protects, restores or improves natural resources. For example, an environmental restoration practice may enhance wildlife habitat for a sensitive species such as the osprey or a threatened species such as the bald eagle; improve water quality, reduce water temperature, or provide large woody debris to a stream in a watershed enhancement area; improve the health of an insect damaged or diseased forest; or protect soils from erosion or degradation.

(125) "Final harvest" means forest products are removed from the stand to create a Harvest Type 1, 2 or 3 condition, described as:

(a) "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.

~~(b) "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.

(c) “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.

(14) “Incurred costs” means the actual invoiced amount from a provider of services or a provider of supplies for completing an approved practice or approved consulting services as specified in a Forest Resource Trust contract or cost-share agreement, or the budgeted cost for the approved practice or approved consulting service; whichever is lower.

(156) "Forestland" means land zoned in a county comprehensive plan for forest or farm use that is capable of producing commercial hardwood or softwood timber, regardless of the vegetation currently on the land.

(167) "Forest products" include, but are not limited to, logs, poles and pilings, lumber, chips, and pulp.

(178) "Forest stand" means the aggregation of all trees, vegetation and other structural components -within the project boundary described in a contract or cost-share agreement ~~in the contract.~~

(189) "Free to grow" means the State Forester has determined that a forest stand has well distributed trees, of acceptable species and of good form and has a high probability of remaining or becoming vigorous, healthy and dominant over undesired competing vegetation.

(190) "Harvest" means the forest products in a forest stand are cut, severed, removed or sold.

(2044) "Landowner" means the person or persons who are eligible to apply for or receive trust funds, or are subject to a Forest Resource Trust Contract.

(21) "Loan program contract" means the Forest Resource Trust contract that is signed by the State Forester and the landowner as the means to receive financial and technical assistance under the Forest Resource Trust's loan program.

(2242) “Low site forestland” means forestland which is capable of annual wood production between 20 and 119 cubic feet per acre per year at culmination of mean annual increment (Cubic Foot Site Class IV, V and VI).

(23) “No Salvage Value” means forest products remaining within portions of the forest stand affected by a catastrophe have no economic value or insufficient economic value such that any salvage operation resulting in the Harvest Type 1 or Harvest Type 3 operation would meet the provisions of OAR 629-610-0070.

(2413) "Nonindustrial private forestland owner" means:

(a) Any forest landowner who has not owned a forest product manufacturing facility within the past 6 months that employed more than 6 people; and

(b) Is not owned or partially owned, or controlled, by any person who has owned a forest products manufacturing facility within the past 6 months, that employed more than 6 people.

(2445) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.

~~(2156)~~ "Person" means an individual, partnership, corporation, limited liability company, trustee, business or other entity.

~~(2167)~~ "Practice" means the operational activity identified in the project plan, such as site preparation or tree planting.

~~(2178)~~ "Project" means the practices required to establish an adequately stocked, free to grow forest stand, on underproducing land or any schedule of practices that results in the improved management of forestlands. ~~described in the project plan in OAR 629-022-0130.~~

~~(289)~~ "Provider of services" means an individual, business, or other entity that has the knowledge, skills, equipment, and ability to plan, conduct or supervise approved practices described in the Project Plan.

~~(2930)~~ "Provider of supplies" means an individual, business, or other entity that provides supplies used to implement the approved practices described in the Project Plan.

~~(301)~~ "Qualified private or local government forestland owner" means any landowner that holds fee title to forestland that is not a state or federal government agency or otherwise an official entity or representative thereof.

~~(32118)~~ "Resource management professional" means a person who the State Forester recognizes as having the ability to develop landowner plans for managing the biological, economic, and environmental relationships of forest resources, and to identify appropriate activities to manage, protect, or enhance forest resources, and who has:

- (a) A degree in forestry, biology or related sciences, plus at least a year of forestry consulting or employment experience; or
- (b) An associate degree in forestry, biology or related sciences, plus at least 5 years of forestry consulting or employment experience.

~~(33219)~~ "Salvage" means harvest of trees that are dead, dying or damaged and deteriorating.

~~(34320)~~ "State Forester" means ~~the State Forester or the duly authorized representative of the State Forester.~~ the State Forester as defined in ORS 526.031 or any duly authorized representative or any successor thereto.

~~(35424)~~ "Timber" means all logs which can be measured in board feet and other forest products.

~~(36522)~~ "Trust" means the Forest Resource Trust as authorized in ORS 526.700 through 526.775.

~~(37)~~ "Unapproved costs" means incurred costs related to practices or consulting services that 1) were either not approved or budgeted for payment by the Trust under the terms of the loan program contract or cost-share agreement or 2) were not completed to the satisfaction of the State Forester.

~~(38523)~~ "Underproducing forestland" means any forestland that is capable of producing at least 20 cubic feet of wood fiber per acre per year at culmination of mean annual increment, but does not currently support the minimum number of free to grow trees required in the reforestation rules under the Forest Practices Act.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193  
Stats. Implemented: ORS 526.700 - ORS 526.775  
Hist.: FB 4-1994, f. & cert. ef. 8-3-94

**629-022-xxxx**

**Project Criteria**

(1) The State Forester shall use criteria to evaluate proposed projects under OAR 629-022-0140.

(2) The State Forester shall give high priority to projects by favoring:

(a) Lands with a forest management plan that encompasses the eligible land and has been created or updated within the last 5 years

(b) Larger acreages;

(c) Lower budgeted costs, and

(d) Lands important to conservation plans or strategies adopted by the Oregon Department of Fish and Wildlife and implementation of the project is, or involves environmental restoration, consistent with the goals and objectives of the conservation plan or strategies.

(e) The degree to which the landowner contributes funds, labor, equipment and material to loan program projects;

(3) The State Forester shall give medium priority to projects in which:

(a) Lands are of higher site productivity;

(b) Funding sources are approved from other forestry incentive or loan programs;;

(c) (e) Forest products are harvested during the conversion.

(4) The State Forester shall give low priority to projects where the landowner does not reinvest revenues generated under section (3)(e) of this rule.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193  
Stats. Implemented: ORS 526.700 - ORS 526.775  
Hist.: FB 4-1994, f. & cert. ef. 8-3-94

**629-022-xxxx**

**Donations to the Trust Fund**

(1) Any individual, partnership, corporation, organization or government agency may contribute funds to the trust fund.

(2) At the request of the donor, contributed funds may be targeted by the State Forester for either the loan or cost-share program and for specific forest management practices in specific watershed, counties or regions of Oregon.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193  
Stats. Implemented: ORS 526.700 - ORS 526.775  
Hist.: FB 4-1994, f. & cert. ef. 8-3-94

629-022-xxxx

Carbon Offsets

In consideration of the benefits received through Forest Resource Trust programs, the State Forester may secure in loan program contracts or other instruments established in ORS 526.780 the rights to carbon offsets accruing to the forest stand provided such action by the State Forester does not interfere with or affect the harvest and sale of forest products by the landowner.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

629-022-xxxx

State Forester Exceptions to these Rules

The State Forester may issue an exception to these rules so as to approve projects that:

(a) Assist a landowner in meeting reforestation obligations under OAR 629-610 where such approval will lead to the establishment of a forest stand that the landowner agrees to manage above the reforestation stocking standards in the Forest Practices Act and in OAR 629-610-020 or as otherwise specified in the loan program contract, until the conditions in OAR 629-022-0250, Life of the Contract, are met.

(b) Contains in part an environmental restoration that results in a non-forest native vegetation habitat condition (e.g., oak savanna) important to and consistent with conservation plans or strategies adopted by the Oregon Department of Fish and Wildlife.

(c) Meet other criteria for exception as developed by the State Forester where such criteria result in approved projects that achieve higher standards for stand establishment and the improved management of forestland than otherwise could occur had the exception criteria not been established.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

**Securing Forest Resource Trust Funds**

**629-022-0100**

**Trust Responsibilities and Financing**

(1) The Board of Forestry is responsible for the management of the Forest Resource Trust programs. The State Forester is responsible for implementing the trust programs and policies adopted by the Board of Forestry.

(2) The trust shall provide financing to establish healthy forest stands on underproducing forestland or to support the improved management of forestlands.

(3) The trust may provide financing to eligible landowners with existing contracts to ensure that their forest stands remain adequately stocked, ~~and~~ reach a free to grow condition or otherwise remain in a healthy, productive condition.

~~(4) No person shall receive more than \$100,000 from the trust during any two year period.~~

~~(a) In determining how much a person has received from the trust during any two year period, the person shall be deemed to have received all trust funds received by any entity in which the person has a personal, family, partnership, limited liability company, corporate or business interest. For example, a husband and wife who are tenants in common of forestland receiving trust funds during a two year period each shall be considered to have received the full amount of the funds attributed to that ownership. Similarly, each partner in a partnership receiving trust funds shall be considered to have received the full amount of the funds attributable to forestland owned by the partnership.~~

~~(b) For purposes of this rule, a person has a corporate interest if at any time during the prior 24 months, the person was a shareholder or officer in a privately held corporation, or was a majority shareholder in a publicly held corporation.~~

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## **629-022-0110**

### **Eligible Landowners and Land**

(1) Only nonindustrial private forestland owners with less than 5,000 acres of forestland or up to 15,000 acres of low site forestland in Oregon are eligible to receive funds under the cost-share program.

(2) Nonindustrial private and other qualified private and local government forestland owners are eligible to receive funds under the loan program.

(2) Eligible forestland must be underproducing forestland or other forestland that is:

(a) At least 10 contiguous acres in size;

(b) Zoned for forest or farm use;

(c) Located outside urban growth boundaries or residential zones, as identified in the county comprehensive plan unless such lands are specifically zoned for parks and greenspace;

~~(d) Free from all reforestation requirements under the Forest Practices Act;~~

~~(d)~~ Free of any "no tree cutting" or "no timber harvest" -covenants or encumbrances;

~~(e)~~ Under no current petition before a county requesting a land use change to avoid reforestation under ORS 527.760; and

(f) Has received, or is currently under no application for a claim for, economic compensation for or waiver from forestland zoning restrictions or requirements of the Oregon Forest Practices Act.

~~(g) Under no active operation to convert underproducing forestland.~~

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## **629-022-0120**

### **Applying for Trust Funds**

(1) Any person may apply for trust funds, certifying on an application provided by the State Forester that:

- (a) Both the lands and the person meet the requirements of OAR 629-022-0110; and
- (b) The person requests a suspension of the reforestation requirements under OAR 629- 610-0070 when a proposed project includes the harvest of forest products.

(2) If the person is a corporation, partnership or limited liability company, the application shall provide the names and addresses of the stockholders, partners, members or any other person having an ownership interest in the entity.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## **LOAN PROGRAM**

## **629-022-0130**

### **Project Plan**

(1) A landowner meeting the requirements of OAR 629-022-0100, 629-022-0110 and 629-022-0120 shall submit a project plan, subject to the State Forester granting a reforestation suspension described in OAR 629 610-0070 if forest products are harvested during the conversion project.

(2) A landowner may receive technical assistance to develop the project plan from the State Forester, other cooperating state or federal agencies, or a resource management professional.

(3) The project plan shall include:~~a~~:

~~(a) Approved practices and approved consulting services necessary to accomplish stand establishment on eligible underproducing lands or the improved management of eligible forestland.~~

~~(b)~~ Current aerial photograph showing project boundaries;

~~(c)~~ Project map or maps ~~at an appropriate scale at 4" = 1 mile or larger scale~~ showing a legend, scale, north arrow, property boundary, the project boundary, ~~topography~~, location of practices, acres, vegetative cover types, soil types within the project boundary, existing or proposed roads, and sensitive resource sites or streams that are protected by the Forest Practices Act; and

~~(d)~~ Description of environmental restoration practices planned within the project boundary and the source of funding for the practices.



~~(4) The project plan shall include a description of the following required practices in the project:~~

~~(a) Site preparation to remove grass, brush or trees by mechanical, manual, prescribed fire, or chemical methods to prepare a seedling planting site;~~

~~(b) Acceptable tree seedlings, specifying appropriate seed zone, elevation, quality control standards, nursery source, availability dates, reservation, transportation, and handling and storage;~~

~~(c) Planting or interplanting, including the number of seedlings per acre by site class and species, the soil and air temperature limitations during planting, and seedling planting depth and root replacement;~~

~~(d) Fertilizer application that may be required to enhance seedling growth on low productivity lands;~~

~~(e) Seedling protection to reduce animal damage to seedlings; and~~

~~(f) Application of moisture conservation measures by either mechanical, manual or chemical methods;~~

(45) The project plan shall also include for each practice described in sections ~~(3)~~ ~~(4)~~ of this rule:

(a) Specifications for the practice;

(b) A time schedule for completion;

(c) ~~Budgeted~~ ~~Estimated~~ costs; and

(d) A description of any Forest Practices Act rules that need to be followed.

(6) When the landowner retains a resource management professional to implement a project, the project plan shall include the resource management professional fees described in OAR 629-022-0230.

~~(7) The project plan shall include a description of the recommended management practices that ensure the forest stand remains adequately stocked and reaches the free to grow condition.~~

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## **629-022-0140**

### **Approval of a Proposed Project**

(1) The State Forester shall use the information in the landowner's project plan, described in OAR 629-022-0130, in a point rating system based on the project criteria in OAR 629-022-0500, to select projects for funding, subject to the requirements of OAR 629-022-0150.

(2) When a project is selected for funding, the State Forester shall approve all practices ~~and~~ ~~budgeted~~ costs ~~and fees~~ described in the project plan in OAR 629-022-0130(3), (4), (5) and (6). ~~Budget c~~Costs ~~and fees~~ shall be subject to the limitations in OAR 629-022-0220 and OAR 629-022-0230.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193  
Stats. Implemented: ORS 526.700 - ORS 526.775  
Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## 629-022-0150

### The Trust Contract

(1) A landowner receiving project approval for trust funding under OAR 629-022-0140 shall execute a loan program contract ~~Forest Resource Trust Contract~~ with the State Forester.

(2) The contract shall include:

(a) The approved project plan;

(b) Financial agreements for repayment of trust funds under OAR 629-022-0300 through 629-022-0410; and

(c) A security instrument, if required by the State Forester, described in OAR 629-022-0160.

(3) No work shall begin on the practices described in the project plan that are subject to direct cost payments by the Trust until the contract is signed by all parties.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## 629-022-0160

### Trust Security Instrument

(1) The landowner may be required by the State Forester to provide good and sufficient collateral to secure repayment of all funds paid to the landowner from the trust.

~~(2) Collateral shall be in the form of a first mortgage or trust deed on the property within the project boundaries and all improvements, fixtures, crops, trees and timber on the property and shall not exceed 75% of the sum of the fair market value of the land, trees and timber, plus the actual trust funds advanced under the contract.~~

~~(3) If legislation is passed that provides a new security instrument specifically for the trust, the landowner shall be provided the opportunity to substitute the collateral provided under section (2) of this rule with the new security instrument.~~

(24) Costs and fees related to the collateral and the security instrument, such as title policy premiums and escrow fees, shall be paid from trust funds but shall not be used to determine final payback amounts described in OAR 629-022-0300 through 629-022-0320. These costs and fees shall be subject to repayment following a breach of contract.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

### Establishing a Forest Stand

## 629-022-0200

### **Implementing the Project Plan; Payments**

- (1) The landowner shall implement the **approved** practices in the project plan and notify the State Forester when a practice, or a part of a practice, described in the project plan is complete.
- (2) The landowner shall submit written invoices for **the incurred cost of** all services and supplies used to complete the practices described in the project plan.
- (3) The State Forester shall disburse trust funds to the land owner **as direct cost payments;** ~~payable to both the landowner and the provider of the services or supplies,~~ when the State Forester certifies that a practice is complete to the specifications and within the **budgeted** costs approved in the approved project plan in OAR 629-022-0140.
- (4) Actual **trust** costs ~~paid from the trust fund~~ shall be used to determine final payback amounts described in OAR 629-022-0300 through 629-022-0320.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

### **629-022-0210**

#### **Landowner Obligations**

- (1) The landowner shall:
  - (a) Complete all project practices described in the project plan;
  - (b) Manage the forest stand in an adequately stocked and free to grow condition, as defined in OAR 629-022-0390;
  - (c) Comply with forest practices standards required by state and federal law except for planting standards, which may be more than the required state minimums;
  - (d) Report any adverse changes in the condition of the forest stand to the State Forester; and
  - (e) Notify the State Forester before commencing any forest operations.
- (2) The State Forester may periodically perform compliance inspections on all practices described in the project plan. The State Forester shall have access to all lands described in the project plan to monitor, evaluate or certify as complete the practices described in the project plan.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

### **629-022-0220**

#### **Project Rates and Costs**

- (1) Project costs described in the project plan in OAR 629-022-0130 shall be within **budgeted costs** ~~written rates~~ determined by the State Forester, based on the prevailing rates and wages in Oregon.
- (2) Project costs paid from the trust fund may not exceed the **budgeted project** costs approved in OAR 629-022-0140(2), unless the landowner requests **approval of a new budgeted cost and**

requests any additional trust funds necessary to cover the cost increase, and providing evidence justifying additional trust funds, prior to the completion of the practice.

(3) The State Forester may approve additional trust funds when:

(a) The requirements of section (2) of this rule are met; and

(b) The landowner agrees to amend the contract and the payback amounts, described in OAR 629-022-0300 through 629-022- 0320 to reflect the higher trust fund expenditures.

(4) The trust fund shall not pay for:

~~(a) The cost of environmental restoration practices described in the project plan;~~

(b) Purchase of capital or expendable items, such as vehicles, road surfacing, culverts, sprayers, shovels, planting hoes, saws or safety equipment; or

(c) Landowner labor, materials or equipment.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

### **629-022-0230**

#### **Resource Management Professional Fees**

(1) Resource management professional fees may be paid from trust funds for field and office work required to write a project plan described in OAR 629-022-0130 and to supervise the implementation and completion of all practices in the project plan described in OAR 629-022-0130(4) and (5).

(2) The fees in section (1) of this rule shall be subject to:

(a) The landowner executing the contract under OAR 629-022-0150 and 629-022-0160; and

(b) The landowner submitting invoices for the professional fees charged.

(3) Trust funds disbursed under this rule shall be payable to both the landowner and the resource management professional.

(4) Fees shall be within the budgeted cost rate determined by the State Forester, based on the prevailing resource management professional fees in Oregon.

(5) All resource management professional fees paid from the trust fund shall be included in the actual trust costs to determine final payback amounts described in OAR 629-022-0300 through 629-022- 0320.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

### **629-022-0250**

#### **Life of the Contract**

The contract between the landowner and the trust shall be terminated when:

- (1) The landowner makes full payment described in OAR 629-022--0300; or
- (2) A catastrophe destroys the entire forest stand, leaving no salvage value; or
- (3) Two hundred years, or as otherwise specified in the contract, elapse since the execution of the original contract.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

### **629-022-0300**

#### **Repaying Trust Funds**

- (1) The landowner may terminate the contract at anytime during the life of the contract by repaying all trust funds, including interest.
- (2) The State Forester shall calculate the amount due by using the actual **trust** costs paid to the landowner to establish the forest stand described in the **loan program** contract, with annual interest at the rate determined in OAR 629-022-0320. Interest is simple, prorated to the nearest full month, and begins on the date that payment or payments are made to the landowner.
- (3) When there is a partial harvest of forest products at any time during the life of the **loan program** contract, the landowner must make payments of 50 percent of all net receipts, until all the trust funds, including interest are paid.
- (4) When there is a final harvest of forest products from ~~the stand described in the contract, the landowner must make full repayment of all the trust funds, including interest~~ forest stand, the landowner must make full repayment of the actual trust cost plus interest attributable to that portion of the forest stand so harvested, or the remaining amount of the actual trust cost plus interest, or the total of all net receipts; whichever is the lowest
- (5) Repayment of trust funds is first applied to the actual **trust** cost paid to the landowner and then to the accumulative interest, until repaying all the trust funds, including interest.
- (6) The landowner shall make payments to the State Forester, to be deposited in the trust fund, within 60 days of ~~completing the harvest operation triggering the need for payment~~ receiving notice of payment from the State Forester.

Stat. Auth: ORS 526.700 – ORS 526.730, ORS 526.745 & SB 81 &193

Stats Implemented: ORS 526.700 – ORS 526.775

Hist: FB 1994, f & cert ef. 8-3-94

### **629-022-0320**

#### **Interest Rate**

- (1) The rate is 4.0 percent, simple interest.
- (2) The interest rate shall be fixed when the **loan program** contract is executed and shall not change during the life of the contract.

Stat. Auth.: ORS 526.700 - 526.730, 526.745 & 527.745

Stats. Implemented: ORS 526.700 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 4-2006(Temp), f. & cert. ef. 5-2-06 thru 10-28-06

### **629-022-0380**

#### **Catastrophe; Salvage Adjustments**

~~(1) A catastrophe means an event or circumstance beyond the landowner's control, resulting in all or part of a forest stand being incapable of producing harvest revenues to make repayment of trust funds as described in OAR 629-022-0300.~~

(12) A catastrophe may be caused by:

- (a) Insects, diseases, fire or other casualties and accidents; or
- (b) Storms, floods, droughts and other unusual environmental conditions.

(23) When a catastrophe damages individual trees or groups of trees within the forest stand:

(a) The landowner shall pay the appropriate ~~fixed payback percentage rate~~ amount on salvaged forest products, as described in OAR 629-022-0300(3), ~~and (4)~~; and

(b) The State Forester shall adjust the forest stand boundaries to reflect the forest stand capable of producing harvest revenues. The forest stand boundaries shall not be adjusted to exclude land with unharvested merchantable forest products.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

### **629-022-0390**

#### **Adequately Stocked Forest Stand**

~~The landowner shall manage forest stands established with trust funds above the reforestation stocking standards in the Forest Practices Act and in OAR 629-610-020 or as otherwise specified in the contract, until the conditions in OAR 629-022-0250, Life of the Contract, are met.~~

~~Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193~~

~~Stats. Implemented: ORS 526.700 - ORS 526.775~~

~~Hist.: FB 4-1994, f. & cert. ef. 8-3-94~~

### **Forest Resource Trust Administration**

### **629-022-0400**

#### **Landowner Breach of Loan Program Contract**

A loan program contract breach occurs when the landowner fails to perform any term of the contract.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

**629-022-0410**

**Remedies for Breach of Loan Program Contract**

- (1) The landowner shall pay liquidated damages for a breach of contract by repaying all trust funds, with interest as calculated in OAR 629-022--0300(2).
- (2) At any time forest products are harvested in breach of contract, the landowner shall pay liquidated damages in the form of a breach penalty.
- (3) In addition to any other right as provided by law, the State Forester may assign a liquidated and delinquent account, as defined by the Oregon Accounting Manual, to the Department of Revenue or to a private collection agency.
- (4) The breach penalty in section (2) of this rule shall include a reasonable administrative fee to recover the cost of collection services and other related costs, as described in ORS 293.231 through ORS 293.250.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.700 - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

**629-022-0500**

**Project Criteria**

- ~~(1) The State Forester shall use criteria to evaluate proposed projects under OAR 629-022-0140.~~
- ~~(2) The State Forester shall give high priority to projects by favoring:
  - ~~(a) Lands with higher site productivity;~~
  - ~~(b) Larger acreages; and~~
  - ~~(c) Lower estimated forest stand establishment costs.~~~~
- ~~(3) The State Forester shall give medium priority to projects in which:
  - ~~(a) A forest management plan that encompasses the eligible land is certified by the State Forester within the last 5 years;~~
  - ~~(b) Funding sources are approved from other forestry incentive or loan programs;~~
  - ~~(c) The landowner contributes funds, labor, equipment and material to the project;~~
  - ~~(d) Environmental restoration practices are planned by the landowner to be completed concurrently with the project, such as restoring fish and wildlife habitat, forest health, soil productivity or enhancing the watershed; and~~
  - ~~(e) Forest products are harvested during the conversion.~~~~
- ~~(4) The State Forester shall give low priority to projects where the landowner does not reinvest revenues generated under section (3)(e) of this rule.~~

~~Stat. Auth.: ORS 526.700 – ORS 526.730, ORS 526.745 & SB 81 & 193  
Stats. Implemented: ORS 526.700 – ORS 526.775  
Hist.: FB 4 1994, f. & cert. ef. 8-3-94~~

**629-022-0600**

**Donations to the Trust Fund**

~~(1) Any individual, partnership, corporation, organization or government agency may contribute funds to the trust fund.~~

~~(2) At the request of the donor, contributed funds may be targeted by the State Forester for projects or specific forest management practices in specific watershed, counties or regions of Oregon.~~

~~Stat. Auth.: ORS 526.700 – ORS 526.730, ORS 526.745 & SB 81 & 193  
Stats. Implemented: ORS 526.700 – ORS 526.775  
Hist.: FB 4 1994, f. & cert. ef. 8-3-94~~

**629-022-0700**

**Carbon Offsets**

~~(1) As used in this section of the rules, carbon offsets are used to comply with air quality objectives or regulations, and compensate for emissions of carbon dioxide from other sources. Such offsets can include sequestering atmospheric carbon in wood fiber.~~

~~(2) In consideration of the benefits received under the contract, the landowner acknowledges that the Board of Forestry retains ownership of and is the exclusive agent for marketing carbon offsets that result from trust fund payments, provided such marketing does not interfere with or affect the harvest and sale of forest products by the landowner.~~

~~Stat. Auth.: ORS 526.700 – ORS 526.730, ORS 526.745 & SB 81 & 193  
Stats. Implemented: ORS 526.700 – ORS 526.775  
Hist.: FB 4 1994, f. & cert. ef. 8-3-94~~

**COST-SHARE PROGRAM**

**629-022-xxxx**

(1) The State Forester shall enter into cost-share agreements with eligible non-industrial forestland owners for the purpose of providing cost-share payments for approved practices for stand establishment on underproducing lands or the improved management of forestland.

(2) The State Forester may adopt the same operational procedures, in part or in whole, for implementing the cost-share program as has been developed for implementing other cost-share programs.

(3) The State Forester may develop additional operational procedures for the cost-share program so as to meet requirements of monies donated to the trust fund under OAR 629-022-~~0060~~.0600.



**DEPARTMENT OF FORESTRY**

**CHAPTER 629**

**Forest Practices Administration**

**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, **and any amounts payable to the Forest Resource Trust according to OAR 629-022-0300.**

(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.