

OREGON DEPARTMENT OF FORESTRY  
**STATE AGENCY COORDINATION PROGRAM**



STEWARDSHIP IN FORESTRY

OREGON DEPARTMENT OF FORESTRY  
FOREST RESOURCES PLANNING SECTION  
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**DEPARTMENT OF FORESTRY**  
**COORDINATION PROGRAM**

**EXECUTIVE SUMMARY**

ORS 197.180 requires each state agency to prepare a coordination program for review and certification by the Oregon Land Conservation and Development Commission. The purpose of the State Agency Coordination Program (SAC) is to assure that Department of Forestry rules and programs which affect land use comply with the statewide planning goals and are compatible with acknowledged city and county comprehensive plans.

ORS 197.180 requires that state agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use: 1) In compliance with goals adopted or amended pursuant to ORS chapters 196 and 197; and 2) in a manner compatible with acknowledged comprehensive plans and land use regulations.

Furthermore, ORS 197.180 requires that each state agency shall submit to the Department of Land Conservation and Development (DLCD) the following coordination program:

1. Agency rules and summaries of programs affecting land use; and
2. A program for coordination pursuant to ORS 197.040(2)(e) (ORS 197.040(2)(e) requires that LCDC coordinate planning efforts of state agencies to assure compliance with goals and compatibility with city and comprehensive plans); and
3. A program for coordination pursuant to ORS 197.090(1)(b) (requires DLCD to coordinate their functions with federal agencies, other state agencies, local government and special districts); and
4. A program for cooperation with and technical assistance to local governments.

The Forest Practices Act is expressly exempted by ORS 197.180(11) and 197.277 from any requirements of ORS 197.180 applying to rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.730 and 527.990 (the Forest Practices Act).

With the close cooperation of DLCD staff, the Department of Forestry has applied the definition of "programs affecting land use" contained in OAR 660-30-005 and has reached the conclusion that the State Forest Management and Administrative Services programs are the only Department programs that affect land use (land use programs).

The SAC Program document describes in detail the Department's programs and the Department's findings relative to which of the programs are land use programs. In addition, the document includes information about the required compliance, compatibility and coordination procedures, the program for cooperation and technical assistance, and procedures for involvement in periodic review. Administrative rules (OAR 629-20-000 to OAR 629-20-080) have been developed to assure "compliance and compatibility." Additionally, the rules include procedures for dispute resolution, compatibility of new or amended programs, coordination, and cooperation and technical assistance.

The Department regards the SAC program as a working document that will guide the Department's present and future involvement with local government in land use issues. In addition, the document will serve as an important reference for local government, state and federal agencies, and special districts about the Board of Forestry and Department of Forestry programs and resources.

TITLE PAGE

TABLE OF CONTENTS

Section Title	Pages
Executive Summary	i
Table of Contents	ii
I. Introduction and Background	1 - 4
II. Department of Forestry Rules and Programs	5 - 31
III. Program to Assure Compliance with Statewide Goals and Compatibility with Acknowledged Comprehensive Plans and Land Use Regulations	32 - 43
IV. Program for Coordination with DLCD, Affected State and Federal Agencies, and Special Districts	44 - 45
V. Program for Cooperation and Technical Assistance	46 - 54
Appendices	
Appendix A - Oregon Forest Laws and Administrative Rules, 1989	
Appendix B - Department of Forestry Organization Chart	
Appendix C - Department of Forestry Directory; Personnel, Office Addresses and Phone Directory	
Appendix D - Map locating State forest lands	
Appendix E - Attorney General's advice about ORS 527.722	
Appendix F - Listing of maps, aerial photos and graphic services available	
Appendix G - "Mailing List Request	
Appendix H - Listing of informational brochures and resource catalogs available through the Dept.	

**SECTION I  
INTRODUCTION AND BACKGROUND**

**A. INTRODUCTION**

**1. PURPOSE FOR STATE AGENCY COORDINATION**

ORS 197.180 requires each state agency to prepare a coordination program for review and certification by the Oregon Land Conservation and Development Commission. The purpose for State Agency Coordination (SAC) programs is to assure that state agency rules and programs which affect land use comply with the statewide planning goals and are compatible with acknowledged city and county comprehensive plans.

The Department of Forestry has developed this coordination program to fulfill its land-use-related responsibilities pursuant to ORS 197.180.

**2. ORS 197.180**

ORS 197.180 establishes that state agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use: 1) In compliance with goals adopted or amended pursuant to ORS chapters 196 and 197; and 2) in a manner compatible (except when a finding is made under ORS 197.640(3)(c)) with comprehensive plans and land use regulations initially acknowledged under ORS 197.251 and amendments to acknowledged comprehensive plans or land use regulations or new land use regulations acknowledged under ORS 197.625.

Furthermore, ORS 197.180 requires that upon request of the commission (LCDC), that each state agency shall submit to the department (DLCD) the following information (coordination program):

- a. Agency rules and summaries of programs affecting land use; and
- b. A program for coordination pursuant to ORS 197.040(2)(e) (ORS 197.040(2)(e) requires that LCDC coordinate planning efforts of state agencies to assure compliance with goals and compatibility with city and comprehensive plans); and
- c. A program for coordination pursuant to ORS 197.090(1)(b) (requires DLCD to coordinate their functions with federal agencies, other state agencies, local government and special districts); and
- d. A program for cooperation with and technical assistance to local governments.

Additionally, the statute establishes procedures and rule making authority for the submittal, review and certification of the coordination program. ORS 197.180 is implemented by Oregon Administrative Rules Chapter 660, Divisions 30 and 31, which define and explain the requirements a state agency must address in its SAC program:

Division 30:

- Agency rules and programs must be described
- an evaluation must be made to identify agency "rules and programs affecting land use," as that phrase is defined in OAR 660-30-005(2). Rules and programs found to have such effect on land use are known as "land use programs."
- For each land use program," the SAC program must include an explanation of how the agency will:

- o Assure compliance with the Statewide Planning Goals and compatibility with acknowledged comprehensive plans and land use regulations
- o Assure coordination with federal and other state agencies, DLCD, local governments, and special districts, and, in particular develop procedures for dispute resolution.
- o Assure cooperation with and technical assistance to local governments during periodic review, plan amendment, and plan implementation.

Division 31:

- Agencies shall identify "state permits that affect land use."
- For each "permit that affects land use," the agency shall describe the process used to assure compliance with the Statewide Planning Goals and compatibility with acknowledged comprehensive plans and land use regulations.

Finally, the Forest Practices Act is expressly exempted by ORS 197.180(11) and 197.277 from any requirements of ORS 197.180 applying to rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.730 and 527.990 (the Forest Practices Act).

### **3. DESCRIPTION OF THE DEPARTMENT OF FORESTRY'S CURRENT COORDINATION PROGRAM AND ANY PROGRAMS PREVIOUSLY DETERMINED TO AFFECT LAND USE.**

In early 1978, the Department of Forestry submitted a coordination program to LCDC, which subsequently approved the program on February 23, 1978.

The approved 1978 coordination program concluded that: (1) the Department's Program 3 (State Lands), Program 4 (Service Forestry) and Program 6 (Forest Practices) have "primary effects on land use"; (2) the Forestry Program for Oregon has special implications concerning land use"; and (3) all remaining programs "have secondary, supporting or incidental effects" on land use.

In 1981, after the applicable coordination program statutes were amended, the Department of Forestry submitted a new "State Agency Coordination Agreement" to LCDC for "Certification". However, due to funding cuts and as a result of legislative policy direction, LCDC did not pursue actions to review and certify the submittal.

On April 19, 1985, the Department of Forestry resubmitted the "Coordination Agreement" to LCDC. Several important policy and legal issues which needed to be resolved between the Forest Practices Program and the Land Use Program prevented the Land Conservation and Development Commission from completing review and officially acting at that time on the submitted program.

Since the time of the submittal of the revised coordination program, the 1987 Oregon Legislature passed House Bill 3396 which resolved the issues between the Forest Practices Act and Land Use Programs and specifically exempted the application of the coordination program requirements to the Forest Practices Act (see Section 2: ORS 197.180 above).

## **B. STATUTORY AUTHORITY AND RESPONSIBILITIES**

The Department of Forestry is a state agency created by law (ORS Chapter 526). The general responsibilities of the Department established by ORS 526.041 are:

1. Protection and conservation of forest resources and forest lands.
2. Direct the improvement and protection of forest land owned by the State of Oregon.
3. Collect data relative to forest conditions.
4. Take action authorized by law to prevent and extinguish forest, brush and grass fires.
5. Enforce all laws pertaining to forest land and prosecute violations of such laws.
6. Cooperate with landowners, political subdivisions, private associations, and agencies and others in forest protection.
7. Publish such information on forestry as the Forester determines to be in the public interest.
8. Advise and encourage reforestation.
9. Enter into contracts and cooperative agreements pertaining to experiments and research in forestry.
10. Dispose of any real property no longer needed for administrative purposes.

## **C. ORGANIZATION**

The Department of Forestry and the Board of Forestry were established by statute in 1911. The Department of Forestry consists of the State Forester and a deputy, assistants and employees of the State Forester, acting under the direction of the Board of Forestry.

The Board of Forestry is a seven member board appointed by the Governor. Members are appointed to four year terms and are subject to Senate confirmation.

The statutory duties and responsibilities of the Board are found at ORS 526.009 to ORS 526.041 and include the following:

1. Supervise all matters of forest policy and management under jurisdiction of this state.
2. Approve claims for expenses incurred under the statutes administered by the Board except as provided by law.
3. Appoint advisory committees to make recommendations concerning any functions vested by law in the Board.
4. Appoint and provide general supervision of the State Forester in the administration of the Department's programs.

The Board is specifically excluded by ORS 526.016(1) from supervising or directing the State Forester in matters relating to the geographic scheduling, annual volume and species allocation, appraisals and competitive timber sale techniques used in the sale of forest products from lands managed under ORS Chapter 530 (State Lands Program).

The Department is arranged into separate central staff and field organizations. The Department is generally organized by program area at both the field and central staff levels. Appendix B includes a Department

organization chart.

The field consists of the offices located outside of Salem. The field offices implement Department programs to achieve objectives and goals. Under direction of the Deputy State Forester, the field organization consists of three Areas; Northwest Oregon Area, Southern Oregon Area and Eastern Oregon Area. Each Area is supervised by an Area Director. The Areas are further divided into Districts and Units.

The central staff organization is generally responsible for developing policy and program changes, providing administrative services, and monitoring program accomplishments. The central staff is organized into four Divisions; Forest Protection, Forest Management, Administrative Services, and Forest Resource Policy. Each Division is headed by an Assistant State Forester.

Coordination with other agencies, including local government, in terms of program implementation, is generally accomplished at the local field offices. Central staff may review some elements of coordination/cooperation to ensure statewide consistency.

#### **D. PROGRAM RESPONSIBILITIES**

The Department of Forestry is given statutory authority to administer a broad array of program responsibilities. The Department has currently organized the program responsibilities into 7 Department programs; Protection From Fire Program, State Forest Management, Forestry Assistance, Cooperative Fire, Forest Practices, Forest Resources Planning, and Administrative Services.

The Department programs may include one or more subprograms. The Protection From Fire Program includes two subprograms; Smoke Management, and County Forest Land Classification. The Forestry Assistance Program includes three subprograms; Insects and Disease, Service Forestry, and Tree Improvement and Forest Nursery. The Forest Resources Planning Program includes a unique program element; the Forestry Program for Oregon. The Administrative Services Program administers one subprogram; Log Brands and Log Patrol. The various Department programs and subprograms are discussed in detail in Section II(A)(2).

## SECTION II

### DEPARTMENT OF FORESTRY RULES AND PROGRAMS

#### A. STATUTORY CHARGES, RULES AND PROGRAMS

This section addresses the requirements of LCDC's Administrative Rule, OAR 660-30-060(3), describing the Department's statutory charges, administrative rules, and programs. In addition to this section, a more complete compilation and description of forestry related statutes is contained in Appendix A, which includes a copy of the Department's publication, "Oregon Forest Laws and Administrative Rules 1989."

#### 1. ENABLING STATUTES

##### ORS CITATION

##### BRIEF DESCRIPTION: RESPONSIBILITIES

- |                     |   |
|---------------------|---|
| a. Chapter 526      | The Department's enabling legislation. It establishes the Board of Forestry and Department; sets forth the general duties of the Board and State Forester; sets forth administrative and rule-making authority; and establishes authority for property disposition, forest research, the forest nursery, assistance to non-industrial private forest landowners, and county forest land classification. |
| b. 321.005 et. seq. | Establishes the Oregon Forest Products Harvest Tax as funding for the Oregon Forest Land Protection Fund (fire protection) and Forest Practices Act.  |
| c. 321.367          | Directs the State Forester to report to county assessors lands not meeting minimum stocking requirements in western Oregon.   |
| d. 321.705 et. seq. | Directs the Department in the administration of the Oregon Small Tract Optional Tax (WOSTOT).   |
| e. 476.310 et. seq. | Directs Board of Forestry to cooperate with local government in providing fire protection and control on lands not otherwise protected (non-forest).  |
| f. Chapter 477      | Authorizes the Department to establish and provide a complete and coordinated forest fire protection system.  |
| g. 478.150          | Requires that petitioners for formation or annexation of Rural fire districts confer with the Department in determining boundaries and land to be included.   |
| h. 527.310 et.seq.  | Governs the Insect and Disease Program. Establishes that forest pests and disease are a public nuisance. Directs the State Forester in investigations concerning insects and disease, and establishes procedures for the eradication of infestations.   |
| i. 527.610 et.seq.  | The Oregon Forest Practices Act. Requires notification of State Forester by operators of forest operations. Establishes rule making authority for the regulation of forest practices which will maintain forest tree species, water, soil, air and fish and wildlife resources. Gives civil penalty authority.  |
| j. Chapter 530      | Establishes procedures for the acquisition, management, and development of State Forests.   |

- k. Chapter 532 Establishes requirements for the branding of logs and the recovery of stray logs (log patrol).
- l. 307.125 Exempts property of forest protection associations organized under ORS Chapter 477 from property tax.
- m. 316.094 Establishes authority of State Forester to develop rules for Reforestation Tax Credit eligibility for individuals and partnerships. Requires inspection by State Forester for certification of eligibility for reforestation tax credit.
- n. 317.102 Same as ORS 316.094, except applicable to corporations.
- o. 336.015 Authorizes State Forester to release surplus seedlings from state nursery to schools for Arbor week activities.
- p. 418.687 et. seq. Allows State Forester to operate programs for Oregon Youth Corps.
- q. 418.705 et. seq. Authorizes summer camp program.
- r. 421.450 et. seq. Authorizes use of forest work camps to employ state inmates in forest management work on state lands.

## **2. DEPARTMENT PROGRAMS**

### **a. PROTECTION FROM FIRE**

Authorized by ORS Chapters 477 and 526, the Department's Protection From Fire Program is responsible for fire protection and prevention on about 15.8 million acres of private, state, county and some federal (western Oregon BLM lands) forest lands in Oregon. The USDA Forest Service, USDI Bureau of Indian Affairs, USDI Bureau of Land Management, and USDI National Park Service provide fire protection to the remaining 10 million acres of (mostly federal) forest lands within Oregon. Rural Fire Districts, city fire departments and private subscription fire organizations provide fire protection to structures, other improvements, and some additional forest and range land.

ORS Chapter 477 declares the preservation of the forests and the conservation of forest resources through the prevention and suppression of forest fires to be the public policy and recognizes the need for a complete and coordinated state forest fire protection system.

ORS Chapter 526 directs the State Forester, under general supervision of the Board of Forestry, to promulgate rules consistent with law for the enforcement of laws relating directly to the protection of forest land.

The goal of the program is to minimize the total cost and loss resulting from wildfire in terms of suppression cost and damage to timber and other forest values.

Essential elements of the program include; planning, prevention, detection, mobilization, initial attack, and fuels management. Key resources include; the budgeted organization of field and headquarters resources, other cooperating protection agencies (Forest Service, BLM, BIA, NPS and rural fire protection districts), private forest landowner resources, and the Oregon Forest Land Protection Fund (a financial resource to provide emergency funds for large forest fires that exceed the financial resources of a Forest Protection District).

As established by ORS 477.210, it is the duty of all forest landowners to provide adequate fire protection for their forest land. All forest landowners are required (by ORS 477.066) to immediately proceed to control any uncontrolled fire on forest land they own or control when its existence comes to the knowledge of the landowner. Landowners can meet these obligations themselves or by participation in

the Department's Protection From Fire program authorized under ORS Chapter 477.

The State Forester is directed by ORS Chapter 477 to both prevent and suppress forest fires. Actions to prevent and suppress fire seek to reduce economic losses associated with uncontrolled forest fire on the management of forest land for economic values. Fire protection services are provided by the Department to forest land in 12 forest protection districts (Note: there are actually 15 forest protection districts. However for administrative purposes they are organized into 12 administrative districts) covering the majority of forest land in Oregon.

"Forest land" for the purposes of the Protection From Fire Program as defined by ORS 477.001 is, "any forest land, woodland, brushland, timberland, cutover land or clearing, which during any time of the year, contains enough flammable forest growth, forest refuse, slashings or forest debris to constitute a fire hazard."

The definition of forest land is used to determine which lands are to be protected and is applied based upon the vegetative cover of the land; not the use of the land. Lands used for residential, industrial or timber production purposes may all be protected by the Forester within a forest protection district if such lands include forest land as defined. However, structures and other improvements located within forest protection districts are not protected by the Department's Protection From Fire Program even though the forest land on the parcel on which the structures are built may be protected. The Department is not required to provide protection "for forest land that is either a small parcel or a tract isolated from a forest protection district and which land is found by the forester as not practicable to be included in a forest patrol system." However, this discretion to not provide fire protection to some forest land does not significantly influence land use in any known way.

Uncontrolled fire can have significant effects on or destroy many natural and cultural resources identified in the statewide goals. Forest fires may threaten or destroy man-made facilities located on forest land. The Protection From Fire Program reduces the effects of fire on these resources. Fire suppression actions conducted by the program may have incidental effects on some resources. For example, construction of fire line may impact cultural sites.

The Department has authority under ORS Chapter 477 to regulate forest operations, use of power-driven machinery, use of fire, and public uses on forest land for the purposes of forest fire prevention. Under this authority, permits are required for the use of power-driven machinery in forest operations and for the use of fire on forest lands. During periods of high fire danger, public access can be restricted or prohibited (access by forest landowners to their land cannot be restricted).

The Department assists in the organization, training, and equipping of Rural Fire Protection Districts (RFPD). This assistance is mainly a cooperative effort provided when requested by a RFPD. However, ORS 478.150 requires that the petitioners for a rural fire protection district formation or annexation shall confer with the Department in determining the boundaries of a rural fire protection district within the boundaries of a forest protection district. The thrust of this conference is to minimize the amount of undeveloped forest land which is included within the RFPD boundaries pursuant to ORS 478.010 which establishes that forest lands within a forest protection district shall not be included within rural fire protection districts:

"unless the owner consents and notifies the rural fire protection district, however, forest land protected pursuant to ORS 477.205 to 477.291 and not exceeding five acres in one ownership shall be included in the rural fire protection district without the owner's consent if the ownership includes any structures subject to damage by fire. Forest land included in a rural fire protection district under this subsection subjects the forest land to assessment for fire protection by the rural fire protection district and the forest protection district."

However, the conference is advisory and the Department has no authority to approve RFPD boundaries.

The Protection From Fire Program includes two subprograms: (1) the Smoke Management subprogram

which regulates emissions from managed fires used to dispose of logging residues (slash) and other forest fuels and (2) the **County Forest Land Classification subprogram** which establishes the type of Forest Patrol Assessment (timber or grazing assessment) paid by forest landowners for fire protection.

Authority for the **Smoke Management Subprogram** is found in both ORS Chapters 477 (Protection From Fire) and 527 (Forest Practices). The **Smoke Management Subprogram**, as stated in ORS 477.515(3), requires that "... For the purpose of maintaining air quality the State Forester and the Department of Environmental Quality shall approve a plan for managing smoke in areas they shall designate..." ORS 527.724 states; "Any forest operation conducted on forest land shall be conducted in full compliance with the rules and standards of the Environmental Quality Commission relating to air and water pollution control."

The subprogram is administered under a Smoke Management Plan (SMP), which is an element of the State Implementation Plan (submitted by the Oregon Department of Environmental Quality) certified by the federal EPA as Oregon's compliance mechanism for the Clean Air Act. The State Forester is required to promulgate rules to carry out the provisions of the SMP. OAR 629-43-043 has been promulgated as the Smoke Management Plan and the rule has been written to include the associated Department Smoke Management Directive 1-4-1-601 as part of rule.

The subprogram provides a single agency approach to the regulation of forest land burning by the Department on federal, state and private forest lands. The objectives of the Smoke Management Subprogram as stated in the SMP are: (1) to prevent smoke resulting from burning on forest lands from being carried to or accumulating in designated areas or other areas sensitive to smoke; (2) to provide the maximum opportunity for essential forest land burning; (3) to coordinate with other state smoke management programs; (4) to conform with state and federal air quality and visibility requirements; (5) to protect public health; and (6) to encourage the reduction of emissions.

The **Smoke Management subprogram** is not specifically referenced in a statewide goal, though the objective of **Statewide Planning Goal 6: Air, Water and Land Resources Quality**, is to maintain and improve the quality of the air, water, and land resources of the state. The Goal requires that discharges shall not threaten to violate, or violate applicable state or federal (emphasis added) environmental quality statutes, rules, or standards.

Regulating smoke emissions from and implementing air quality control strategies for non-point sources such as slash burning is a federally imposed requirement on the states. For the State of Oregon, the Department of Environmental Quality (DEQ) is charged with developing state air quality standards and the state implementation plan for such purposes consistent with the federal Clean Air Act. However, the Department of Forestry has been delegated (by the Legislature and DEQ) the administration of the forest land burning air quality control measure element of DEQ's program (SIP) since the Department of Forestry has the expertise and administrative structure consistent with the needs of regulating forest land burning.

DEQ's State Implementation Plan is certified by the federal Environmental Protection Agency for compliance with the federal Clean Air Act developed under ORS 468.305. The SIP is required under 42 USCA section 7410. The SIP contains a number of strategy programs to ensure that the federal and state air quality standards are met. Some of these strategy programs are administered by DEQ and some are administered by Boards, bodies and executive agency heads of cities, counties, and other political subdivisions. In the case of the strategy program (in the SIP) for forest land burning, the air quality standards that forest land burning must meet, pursuant to ORS 477.515, are met through methods and procedures of the Smoke Management Plan (SMP) which is jointly approved by the Department of Environmental Quality and the State Forester. ORS 477.515(3) requires that "... For the purpose of maintaining air quality the State Forester and the Department of Environmental Quality shall approve a plan for managing smoke in areas they shall designate..." The plan is to be developed "in cooperation with federal and state agencies, landowners and organizations which will be affected by the plan." (ORS 477.515(3)(a).) Sections 2 to 9, Chapter 929, Oregon Laws 1989 require that the State Forester create an advisory committee to advise and assist the State Forester in carrying out the smoke management

program. The committee is to include five members: one member representing a non-industrial forest landowner; one member representing an industrial landowner; one member representing the public; a representative of the Forest Service; and a representative of the Bureau of Land Management.

While smoke emissions from forest land burning are regulated through the SIP and SMP, the burning of forest land as a forest practice is regulated by the Oregon Forest Practices Act. To this end, the Forest Practices Act regulates slash burning to ensure water quality, wildlife habitat and soil productivity are protected. As discussed in sections II(B)(2)(j), III(B)(1) and V(C)(5) the Forest Practices Act is expressly exempt from the SAC program requirement and forest practices cannot be regulated by local government.

The County Forest Land Classification subprogram identifies forest land for Protection From Fire Program and Forest Practices Program purposes. The information developed by the classification process is used to determine the amount of Forest Patrol Assessment that is paid (either the timber or grazing rate) and what forest lands in eastern Oregon must be reforested pursuant to the Forest Practices Act (grazing lands are exempt from the requirement for reforestation).

Pursuant to ORS 526.310, the governing body of each county may establish a committee of five persons to investigate and study all forest land within the county to determine which of the land is suitable primarily for timber production, which is suitable primarily for the joint production of timber and grazing, and which is suitable primarily for grazing purposes. If the county does not appoint a committee or the committee fails to act the State Forester may make the determinations.

Some statutory authority within the County Forest Land Classification section of law is no longer utilized; specifically, the authority to supervise the burning of private forest lands and thereby assist landowners in the development of forest land for grazing or agricultural uses through burning. Request for such supervisory assistance has not been made in recent years and the State Forester is unlikely to provide such supervision of burning due to liability concerns. However, the Department assists landowners with prescribed burning pursuant to authority in ORS Chapter 477 (see Cooperative Work Program).

The major purpose of the County Forest Land Classification subprogram (as administered by the Department) is to provide a mechanism for establishing the basis for computing the costs of fire protection for grazing lands separately from timberland.

Pursuant to ORS 477.230, the annual costs of fire protection for grazing lands and timberland paid within a forest protection district are to be established separately. Annually, budgets are developed for each forest protection district. If there is both grazing land and timberland in the district, than one budget is developed for the cost of protection of the grazing lands within the district and one budget is developed for the cost of protection of the timberland within the district. Based upon the two separate budgets, grazing lands within a forest protection district are protected at a pro rata cost per acre for all grazing land and timberlands are protected at a pro rata cost for all timberland. The cost of protecting grazing lands has historically been less than timberlands due to the much lighter fuel load on the grazing lands (mainly grass) and this difference provided the original rationale for treating the two types of forest land separately.

The process to identify grazing land and timberland is in ORS Chapter 526. Pursuant to 526.310, County Forest Land Classification Committees may be appointed by the governing body of each county to determine which of the forest lands in the county are suitable primarily for the production of timber, which are suitable primarily for the joint use for timber production and grazing of livestock, and which are primarily suitable for the grazing of livestock.

Determinations made by the committee are subject to public review and hearings. In the event that a committee is not appointed by the governing body, the Board of Forestry may authorize the State Forester to make the classifications.

The State Forester has made such determinations in most western Oregon counties. However, in eastern

Oregon counties and southern Oregon counties, where grazing land is located, committees have made the majority of determinations.

As discussed earlier, the consequence of these determinations is some forest land (Class 3, grazing) is assessed less for fire protection services provided by the Department than other forest land. Also, in eastern Oregon, Class 3 lands are not required to be reforested pursuant to the Forest Practices Act. Designations by the committees or the State Forester are not used to change or influence the actual land uses of landowners, nor are they an element of consideration in comprehensive plans.

Other elements of the County Forest Land Classification subprogram included in ORS Chapter 526 such as, ORS 526.350 which requires that all forest laws and rules administered by the Forester shall be administered in such a way as best to promote the primary use (timber, timber and grazing, or grazing) for which the land is classified and ORS 526.360 to ORS 526.370 directing the State Forester to assist forest landowners in the development of agricultural uses have in practice not been applied in many years.

#### **b. STATE FOREST MANAGEMENT**

The Department is responsible for the management of nearly 786,000 acres of forest land to secure the greatest permanent value to the state whereby production of timber on a sustained yield basis is the primary goal, but where due consideration is given to all other appropriate uses of the land. Statutory authority for this program is provided by ORS Chapter 530.

The Department manages 654,000 acres of Board of Forestry lands and 132,000 acres of Common School (Trust) Lands.

Title to most of the Board of Forestry lands was transferred to the Board during the 1930s and 1940s by counties that had foreclosed on the lands for non-payment of taxes. Title to these lands includes an implicit trust arrangement with the counties for payment to them of a share of the revenues generated by the land management activities conducted by the Department. Over two-thirds of these lands are located in northwest Oregon.

Pursuant to ORS 530.050, the primary objectives for managing Board of Forestry lands are: (1) generate revenue for county government and local taxing districts; (2) make raw materials available on a sustained yield basis to help meet demands for forest products; (3) obtain the greatest permanent value for the state; (4) provide community stability; (5) encourage efficiency in harvesting and processing; (6) encourage full economic utilization of the forest resource; and (7) provide employment.

Title to the Common School lands is held by the State Land Board. About two-thirds of the acreage is located within the Elliot State Forest in Coos and Douglas Counties, while the balance of the lands are scattered in thirty other counties.

The State Forester provides management to the Common School lands under a contract with the State Land Board. The primary objective for the management of these lands is to generate income for the Common School (Trust) Fund consistent with sound land and timber management practices.

The State Forest Management Program is self supporting and operates from a portion of the revenues that are generated from the lands (36 1/4% of the gross revenues on Board of Forestry Lands and reimbursement by the State Land Board of the Department's actual management expenses on Common School lands); the balance of the revenue is distributed to the counties in which the timber is sold for further distribution to the local taxing districts (Board of Forestry lands) and to the Common School Fund (Common School lands).

Pursuant to ORS 526.255 and 526.265, long range plans are developed to describe major timber management strategies and objectives for state lands in each of four regions; Southern Oregon, Northwest Oregon, Willamette, and Eastern Oregon. Harvests are regulated based upon sustained yield

for each of the four regions individually.

### c. FORESTRY ASSISTANCE

The overall purpose of the Forestry Assistance Program is to assist Oregon's private forest landowners in meeting their resource management objectives while increasing forest growth and harvest potential to help ensure future supplies of timber and other forest products; to promote forest health; and to enhance and protect for current and future generations critical natural resource values such as fish and wildlife, soil, air, water, recreation and aesthetics.

The Forest Assistance Program is comprised of three subprograms; Insect and Disease Management, Service Forestry, and Tree Improvement and Forest Nursery.

The Insect and Disease Management subprogram (authorized by ORS Chapter 527.310 - 400) works to minimize the incidence and severity of insect and disease mortality, growth loss and associated damages on 12 million acres of state, county and private forest lands. Insect and disease outbreaks, like fire, are natural phenomena which forests have evolved with. Like the Protection From Fire Program, the Insect and Disease Program has as its objective the reduction of the economic consequences of these natural events.

The State Forester is authorized to make surveys and investigations to determine the presence and extent of insect and disease pests. When the State Forester finds timber land threatened or infested, a determination is made if control measures are needed and available, and the area over which control measures should be applied. The statutes require that every forest landowner, when notified by the State Forester, shall control and destroy forest insect pests and tree diseases, or make provisions for control. If the landowner fails to do so, the control work may be performed by the State Forester with the approval of the Board of Forestry. The State may assist in the control costs with funds made available for that purpose.

The current program uses the principles of integrated pest management. This is a continuous process in which ecological, economic, and social aspects of pest/host systems are considered and evaluated by resource managers to meet forest management goals and objectives. Interdisciplinary planning teams are often used to analyze data and present alternatives. Early detection, evaluation and prevention are key elements of the system.

The Service Forestry subprogram, authorized by ORS 526.425 et. seq., provides technical advice and support to some 25,000 non-industrial private forest (NIPF) landowners across the state. Ownership of this class of land includes approximately 4.5 million acres or 40% of the private forest land ownership.

The goal of the program is to increase both the harvest and growth of timber on non-industrial private forest lands to help relieve future timber supply problems. The program is also cooperating and providing leadership in ensuring that the level of management on non-industrial lands will allow for achievement of landowners' objectives, as well as meeting the raw material capabilities of this ownership group.

Program elements include: (1) provision of technical advice and preparation of land management plans for NIPF landowners; (2) administration of federal cost-share programs; (3) administration of the Western Oregon Small Tract Optional Tax (WOSTOT); (4) certifying the eligibility of landowners who qualify for the reforestation of underproductive forest land state tax credit; (5) coordination of services available to woodland owners; (6) and providing assistance in the formation of cooperatives and aggregates.

Technical advice and management planning assistance are provided by Department service foresters when requested by forest landowners. Service foresters provide technical advice on the following subjects; site preparation, tree planting, precommercial and commercial thinning, releasing trees from brush competition, fertilization, insect and disease prevention, seedling protection measures, economics

of small tract management, information and referral on timber and forest land tax matters, erosion control, growth and yields, available markets, and fire protection.

Service foresters provide management planning assistance by helping non-industrial private forest landowners develop management plans for their forests. The service foresters identify management opportunities that are consistent with the landowners' objectives while maintaining or increasing the productivity of timber on the lands.

Federal cost share programs include the Forestry Incentives Program (FIP), the Agricultural Conservation Program (ACP), and the Conservation Reserve Program (CRP). FIP has, as its goal, increased timber production on the most productive forest lands. ACP advances forestry as a soil and water conservation measure. CRP is designed to plant trees or grass on highly erodible crop lands. All three programs offer cost-sharing for tree planting, and FIP and ACP will also cost-share timber stand improvement. Landowners may receive up to 65% of the cost of doing forestry practices under FIP and up to 75% under ACP. CRP cost-shares up to 50% for tree planting and also has a 10 year per acre rental payment to the producer.

The Department is involved in the administration of the cost-share portion of the federal grant programs by providing technical services to the Agricultural Stabilization Conservation Service (ASCS) at the state and county level, and to the landowners served by the programs. Approval of cost-share is done by the Agricultural Stabilization Conservation (ASC) Committee working with ASCS. The Department determines the technical specifications for the practices which the landowner intends to implement, and certifies to the ASC Committee that these practices are needed and feasible. Upon completion of the project, the Department certifies to ASCS that the project has been completed and meets the technical specifications. Final approval for cost-share payment is made by ASCS.

WOSTOT is a preferential property tax program that is optional to the Western Oregon Forest Land and Severance Tax (WOFLAST) available to forest landowners in western Oregon with ownerships between 10 acres and 2,000 acres. Landowners wishing to participate in WOSTOT must apply to the State Forester for determination and certification that the land is qualified to be eligible for WOSTOT.

The Department is required by statute to establish minimum forest management (use) standards by rule for the qualification of lands under this program. Based upon the Department's interpretation of the applicable statutes and the Department's understanding of the legislative intent for WOSTOT, the Department cannot establish eligibility criteria based upon local government land use zoning. In as much as the purpose of WOSTOT is to promote the growing and harvesting of timber, so long as the land is actually being used for such purpose the Department cannot declare it ineligible based upon zoning.

Department administration of WOSTOT includes determining WOSTOT forest land values each year; processing new applications; field inspection for compliance with eligibility criteria and management standards; certification; reinspection and recertification of eligible lands every five years; coordination with the county assessors so property taxes can be assessed; and coordination with the Department of Revenue where certified WOSTOT lands are intermingled with lands subject to other forest taxes.

WOFLAST is a special property tax assessment program designed to provide incentives for the production of timber. Under ORS 321.367, the State Forester has been charged to report on forest lands failing to meet minimum stocking requirements required by the Forest Practices Act to the appropriate county assessor. Land so reported is to be disqualified from receiving preferential tax treatment under WOFLAST. However, the Legislature is currently not electing to not provide the funding needed to accomplish this task. Therefore, the Department does not have a program in place for this purpose.

The reforestation tax credit is a tax credit available to landowners of more than five acres of forest land, who develop underproductive forest land into a commercial forest. Landowners must expend at least \$500 to be eligible for the credit. No credit can be claimed for any lands on which reforestation is required by the Forest Practices Act, with the exception of the conversion of low value hardwood stands.

The department inspects land on which the credit has been claimed to determine if the new forest has been established pursuant to specifications established by the State Forester. The department shares tax credit certification information with the Department of Revenue.

The special property tax assessment programs (WOFLAST and WOSTOT) provide incentives for the owner who wishes to grow marketable timber on land whose highest and best use may be other than the growing of trees. In general, such incentives are not inconsistent with local government land use zones even if zoned other than forest land. This is because such forest uses are desired and allowed in other zones and in general, the desired forest use is actually occurring.

However, certain inconsistencies exist between the statutes regulating how land is planned and assessed in rural areas and urban areas. Specifically, under the present statutes, it is legally possible for land to be planned, zoned and used for rural or urban development, primarily residential, and still qualify for preferential tax benefits established for forest lands. Additionally, the decision of the Legislature to not fund the Department's review of compliance with management standards by lands receiving benefits under WOFLAST has resulted in an unknown, but arguably significant number of parcels receiving benefits for which they do not qualify. Both inconsistencies allow landowners with the objective of using land for predominantly residential or speculative development purposes to hold land at a low cost while contributing little to the purpose for which the preferential tax treatments were designed. LCDC has not done any interpretative rule-making on Goal 4's application to either the WOSTOT or WOFLAST programs. Action by the Legislature will be required to resolve these inconsistencies.

(Note: The following two paragraphs contrast the WOFLAST and WOSTOT programs and is intended to provide additional information for the benefit of the reader.) WOFLAST includes both a land tax and a timber severance tax. With the change to the WOFLAST system from an ad valorem system in 1977, all lands valued as forest land or classified as reforestation lands under the previous system were automatically designated as forest lands under WOFLAST in 1977. All ownerships larger than 2 acres are eligible. Under WOFLAST, the land is taxed annually based upon land values determined by the Department of Revenue and the timber is taxed in the year it is harvested. For lands determined by the county assessor to have a "highest and best use" as forest land, generally no application is needed by the owner to participate in this program and no penalty is imposed on such lands if it does not meet minimum management standards. Owners may request to the county assessor that their land be classified as Designated Forest Land when it is being used as forest land but has a higher assessed value for uses other than forestry. Land designated as forest land in this situation is valued and taxed at its true cash value as forest land rather than market value. If such lands are disqualified from this designation, they are subject to a rollback tax penalty.

The WOSTOT program is available to owners with 10 to 2,000 acres of forest land where the land meets minimum forest stocking and management standards. Owners must apply for WOSTOT to the Department of Forestry and the Department conducts an exam of the property to determine if it is eligible. Land classified under this act is placed in one of five quality categories. Value per acre is determined by the Department of Forestry and is used by the county assessors as the true cash value for the land. Annual taxes are paid (for both land and timber) based upon this value and no severance tax is paid at the time of timber harvest. Lands under this program are reinspected every five years.

Coordination of services involves periodically assessing available assistance to NIPF landowners, making recommendations as needed to the Legislature, and preparing various brochures and catalogs describing assistance.

Forming cooperatives and aggregates involves assisting NIPF landowners to coordinate their young growth management activities in order to carry them out more efficiently and cost effectively.

Authorized by ORS 526.470, the **Tree Improvement subprogram** develops and supplies targeted quantities of genetically superior seed for reforestation on state and private forest lands in western Oregon by: (1) Establishing tree improvement programs for state owned forest land; and (2) providing seed orchard service for cooperative tree improvement programs in Oregon.

The Department cooperates with private industrial and non-industrial landowners in ten tree improvement programs in western Oregon. As part of this operation, the Department operates the J.E. Schroeder Forest Seed Orchard, a 400-acre tract of farm land, located 15 miles north of Salem.

Authorized by ORS 526.235, the D. L. Phipps State Forest Nursery provides high quality seedlings in quantities to help meet reforestation demands on private, state and federal (BLM) forest lands.

The D.L. Phipps Nursery occupies 261-acres of land near Elkton. The Department owns 106-acres, and leases the remaining 155 acres. The nursery is managed by the Southern Oregon Area as a field function.

Acquisition of land or the development of new facilities for expansion of the Tree Improvement Program or the nursery would be coordinated by the Administrative Services Program.

#### **d. COOPERATIVE FIRE**

The Cooperative Fire Program, authorized under ORS 526.046, provides a readily available supplemental fire protection resource to fire protection organizations, including the Department.

Crews are organized, trained and worked on projects for landowners, primarily federal, in a variety of tasks not competitive with the private sector. Actual costs of using these crews on projects are paid for by the using landowner. When crews are needed for firefighting, they are readily available to the state protection organization and its cooperators, principally the Forest Service.

The program is performed through written cooperative agreements with landowners. Work projects include slash burning, fire trail construction, road maintenance, and stream improvement.

#### **e. FOREST PRACTICES**

The Forest Practices Program, authorized by ORS Chapter 527 (Forest Practices Act), assures the continuous growing and harvesting of forest tree species while protecting soil, air and water resources. The program regulates commercial forest operations to ensure forest practices that maintain and enhance the benefits of all forest resources.

The program is administered on 10.1 million acres of private, state, and county forest lands. Federal agencies have agreed to meet or exceed the standards of the Forest Practices Act in the management of their lands.

#### **f. FOREST RESOURCE PLANNING**

The Forest Resource Planning Program, authorized under the general authority of ORS Chapter 526, analyzes a broad number of critical forest resource issues and develops recommendations for resolving the issues.

The Forest Resource Planning Program also includes the land use planning coordination element of the Department. Included within this program element are both federal and statewide forest land use coordination. Under federal forest land use coordination, program staff analyze the impacts of federal forest planning alternatives and land allocations on meeting desired State of Oregon objectives. Under the statewide forest land use coordination, this program provides technical assistance to local government on forest land use issues and promotes adoption by LCDC and local government of forest land use policy consistent with the forest land use policies and programs of the Board of Forestry.

Finally, this program is charged with assisting the Board of Forestry in producing and promoting the Forestry Program for Oregon (FPFO), which is the Board's statement of policies and action program's for the management of Oregon's forests.

The Forestry Program for Oregon describes the Board of Forestry's direction to the State Forester, and recommendations to the Legislature, local government, Governor and to the citizens of Oregon on matters of forest policy which the Board considers important. The direction and recommendations are provided in terms of a mission statement, objectives, and an action plan containing policies and programs.

The Forestry Program for Oregon encompasses all ownerships of forest land (federal, state, and private), and all resources provided by our forests (fish and wildlife, soil, air, water, recreation, grazing and timber).

The objective of the Forestry Program For Oregon is to identify opportunities and describe actions to deal with issues related to the allocation and management of Oregon's forests. Such actions are designed by the Board of Forestry to attain and maintain forest conditions as described in the mission statement and objectives.

The Forestry Program for Oregon is dynamic and is updated periodically as new information about the condition of our forest resources becomes available, issues change and management techniques are improved.

In 1977, the Board of Forestry completed a four-year review of the current and future timber supply situation in Oregon and published the original Forestry Program for Oregon. This Forestry Program for Oregon suggested specific actions and policies to minimize or avoid future timber shortages.

In 1982, the Forestry Program for Oregon was updated to reflect changing conditions. However, the major emphasis of the program --avoiding a timber shortage-- remained the same.

Critics of the original and updated Forestry Programs for Oregon suggested that the program emphasized timber production and excluded consideration of other forest resources. These critics advocated the need to develop a new program which considered the balanced use of all of Oregon's forest resources to provide a full range of uses for the citizens of Oregon.

Responding to such criticisms, the Board of Forestry sponsored a public opinion gathering effort in August and September of 1986 to determine the points of view held by Oregonians with regard to the state's forests.

With the results of the public opinion surveys in hand, the Board of Forestry in 1987 directed the Department of Forestry to begin developing a more comprehensive Forestry Program for Oregon that clearly illustrated the balance to strike among competing forest uses and values.

At about the same time, the 1987 Legislature enacted HB 3396, providing for a new Board of Forestry, which was organized during early 1988. This seven-member board reviewed the Department of Forestry's on-going efforts to update the Forestry Program for Oregon at the July 1988 Board meeting, developed a new mission statement to direct the effort, and elected to continue work on the document.

Development of the new Forestry Program for Oregon included five major steps:

1. Mission Statement Development:

- The Board of Forestry's mission statement defines the long-range forest conditions desired by the people of Oregon. The mission statement was drafted by the Board in July, 1988. After a period of public review and comment, the final mission statement was adopted by the Board in October, 1989.

2. Resource Assessment:

- The resource assessment, titled "An Assessment Of Oregon's Forests, a collection of papers published by the Oregon Department of Forestry," was published in October, 1988. It contains an inventory and

description of the current condition of Oregon's forest resources, expected future demands and management opportunities.

### 3. Issues Identification:

- An issues report was provided to the Board in January, 1989, which was used as an analysis tool to prepare Forestry Program for Oregon policies and programs. It identified obstacles (issues) which prevent or limit attaining and/or maintaining desired forest conditions.

### 4. Objective Development:

- The Board held a second public retreat in April 1989 in order to identify major objectives to be reached in pursuit of the Board's mission statement.

### 5. Action Plan (Policies and Programs) Development:

- Finally, the Board developed an action plan designed to achieve its mission statement and objectives, which is published as, The Forestry Program for Oregon.

In the Forestry Program for Oregon, the Board of Forestry has adopted six Objectives including one objective concerned with land use: "FOREST LAND USE: Preserve the forest land base of Oregon".

The Board of Forestry's forest land use objective recognizes the need to maintain a forest land base adequate to provide the multitude of public benefits desired by Oregonians. The adopted forest land use policies and programs focus on the protection of both the total forest land base and the commercial forest land base and emphasize multiple-use forest management on commercial forest lands, rather than single forest uses.

~~[Note: the following 14 paragraphs were moved from pages 46, 47, and 48]~~ The Forestry Program for Oregon's land use policies and programs include several policies and programs relevant to the statewide land use program including:

Policy - "The Board promotes and supports land use planning as a critical tool in Oregon to conserve the forest land base and ensure that forest land uses are based on policy expressed in ORS 527.630(1), the Forest Practices Act and rules, the Forestry Program for Oregon, policies adopted by the Oregon Land Conservation and Development Commission (LCDC), and county comprehensive plans acknowledged by LCDC."

Policy - "The Board will promote the stabilization of the present commercial forest land base through the implementation by Oregon forest landowners and agencies of plans and programs that consider the policies and programs of the Board of Forestry."

Program - "The Department will promote the use of criteria, including economic evaluation, by which federal, state, and local planners can evaluate the full impact of changes in the total forest land base and the commercial forest land base. This evaluation should be part of an effective planning process that recognizes fully the forest land policies established by the Oregon Legislature and the Board of Forestry. The Department will promote planning for forest lands in a manner which accommodates projected needs for development on forest land with the least possible impact on capability of the commercial forest land to meet projected demands."

Program - "The Department will monitor cooperatively with the Department of Land Conservation and Development both the loss of commercial forest land and the restrictions on management of commercial forest land, using both local comprehensive plans and federal agency plans."

Program - "The Department will continue active participation in local land use planning and regulations, including review of applications for forest dwellings."

Program - "The Board will encourage recognition in the statewide land use planning program of economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forest land for such purposes as the leading use on privately owned forest land, consistent with sound management of soil, air, water and fish and wildlife resources."

Program - "The Board will promote the maintenance of the maximum feasible level of commercial forest land in Oregon to stabilize the commercial forest land base in all three forest regions of the state."

Program - "The Board and Department will promote the adoption of state land use policies and local land use ordinances that ensure that any partitioning of forest land is appropriate to allow efficient forest practices and the continuous growing and harvesting of forest tree species."

The Department's involvement with local government in land use includes technical assistance and promotion of the Board's land use policies.

The Department provides local government technical forestry assistance to help local government meet their planning responsibilities. This is done, in part, by the Department reviewing local land use actions to ensure compliance of the proposed actions with the local government's comprehensive plan and ordinances.

The thrust of this effort, as it relates to local government, is the review of proposed land use actions, and proposed amendments to plans and ordinances, etc., to ensure that the proposed action complies with the comprehensive plan standards and statewide goals. For proposed land use actions, the action is to be reviewed against the local government's comprehensive plan standards and ordinances for conformity to the standards and ordinances. If the action conforms to the plan's standards and ordinances, the Department accedes to the proposal (even though it may result in conflicts with our programs) and does not comment. If the action does not conform to the standards or ordinances, the Department may bring the inconsistency to the attention of the local jurisdiction. This approach to reviewing land use actions is included as official department policy in directive 4-1-5-110.

Department participation does not place any additional restrictions on local government other than that which they currently have; i.e., compliance with the land use goals and their comprehensive plan. Such involvement is unlikely to have a significant effect on resources, objectives, or areas identified in the statewide goals or on present or future land uses identified in acknowledged comprehensive plans.

The promotion of the Board's land use policies is accomplished by making policy recommendations to both local government and LCDC with regard to forest land uses. The Board has no enforcement authority with regard to its land use policies and must rely strictly on its ability to "promote and encourage."

#### **g. ADMINISTRATIVE SERVICES**

Under authority of ORS Chapter 526, the Department's Administrative Services Program provides the logistical and facilities support for more than 500 full-time and 900 seasonal personnel. Services range from paying bills to motor pool management.

The Administrative Services Program is organized into four major program elements; personnel, support services, finance, and computer services.

Acquisition, disposal, remodeling and construction of administrative sites (dwellings, offices, and other facilities) for all Department programs is the responsibility of this program. Included within this program element is the caretaking of a national historic building, the Department's administrative headquarter's building in Salem.

The Log Patrol/Log Brands program is a subprogram of the Administrative Services Program. This

program, under the authority of ORS Chapter 532, provides a system for the documentation of log ownership, return of escaped logs and boom sticks on the Columbia River and tributaries to the owners, and sale of same, where the owner does not want to pay for the costs of recovery. This subprogram is clearly not a land use program and it will not be further discussed in this document.

### **3. ADMINISTRATIVE RULES**

The Department has adopted a number of administrative rules in accordance with its statutory responsibilities. The Department's administrative rules are found in Oregon Administrative Rules (OAR) Chapter 629. In addition to this section, a more complete compilation and description of forestry related rules is contained in Appendix A, which includes a copy of the Department's publication, "Oregon Forest Laws and Administrative Rules 1989."

- a. Division 1: Procedural Rules
- b. Division 10: Administration
- c. Division 23: Forest Taxation
- d. Division 24: Forest Practices

#### Division 25 - 32: State Forest Land Management

- e. Division 25: State Forests Park and Recreation Areas
- f. Division 26: State Forests Motorized Recreation Vehicle Use
- g. Division 28: State Forests Personal Use Fuelwood Permits
- h. Division 32: Procedures Governing Defaults on Board of Forestry Timber Sale Contracts
- i. Division 38: Log Patrol

#### Division 41 - 45: Forest Fire Protection

- j. Division 41: Administration
- k. Division 42: Fire Control
- l. Division 43: Fire Prevention
- m. Division 45: Land Classification
- n. Division 46: Log Brands
- o. Division 51: Forest Insect and Disease Management
- p. Division 55: Forest Practices Civil Penalties;  
Sensitive Resource Inventories

#### Division 60 & 61: Emergency Fire Cost Committee

- q. Division 60: Procedural Rules
- r. Division 61: Oregon Forest Land Protection Fund

#### **4. ADMINISTRATIVE PROCEDURE**

In addition to OAR Chapter 629, the Department has adopted various agency policy and/or operational directives, manuals, handbooks and long range plans to guide the conduct of its activities and business. Principle of these are the Forest Practices Forester Handbook, the Administrative Manual, Land Use Planning Handbook, Long Range Timber Management Plans, and Standard Directives.

#### **B. ANALYSIS OF PROGRAMS AFFECTING LAND USE**

##### **1. GENERAL DISCUSSION**

OAR 660-30-005 (2) defines "rules and programs which affect land use" (land use programs) as state agency rules and programs which are:

- A. Specifically referenced in the statewide planning goals; or
- B. Reasonably expected to have significant effects on:
  - 1. Resources, objectives or areas identified in the statewide planning goals; or
  - 2. Present or future land uses identified in acknowledged comprehensive plans.

Rules and programs are not to be included as land use programs if:

- A. An applicable statute, constitutional provision or appellate court decision expressly exempts the requirement of compliance with the statewide goals and compatibility with acknowledged comprehensive plans; or
- B. The rule, program or activity is not reasonably expected to have significant effects on:
  - 1. Resources, objectives or areas identified in the statewide planning goals; or
  - 2. Present or future land uses identified in acknowledged comprehensive plans; or
- C. A state agency transfers or acquires ownership or an interest in real property without making any change in the use or area of the property. Action concurrent with or subsequent to a change of ownership that will affect land use or the area of the property is subject either to the statewide goals or applicable city or county regulations.

All the Department's programs have a potential effect on resources, objectives and areas identified in the statewide planning goals, or present or future uses identified in acknowledged comprehensive plans. Thus, the question becomes one of determining whether the programs have a "significant effect" or not.

The term "significant effects" used in the definition is undefined. Webster's Dictionary defines "significant" as important, weighty. However, the dictionary definition is still subjective terminology. Therefore, to implement the definition of "programs affecting land use" in OAR 660-30-005(2), criteria to identify when a program probably has a "significant effect" have been developed in consultation with DLCD staff. The Land Conservation and Development Commission has the final authority for determining which rules or programs have significant effects on resources, objectives, or areas identified in the planning goals, or present or future uses identified in comprehensive plans. The criteria used by the Department of Forestry for determining if a significant effect probably exists are:

- (1) The program authorizes a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the

affected local government(s);

(2) The program adopts or amends management plans for state lands that include protection standards or definitions applicable to local governments for goal compliance;

(3) Approves a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s);

(4) The Department of Forestry program action or decision will significantly affect the public interest in terms of resulting in a major change in land use;

(5) The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision.

The array of Department programs all deal with the management and use of Oregon's forests and associated natural resources. These resources are addressed in Oregon's land use program through Goal 4 (Forest Lands), Goal 6 (Air, Water, and Land Quality), Goal 5 (Open Space, and Natural and Scenic Resources), Goal 15 (Willamette Greenway), Goal 16 (Estuaries and Wetlands), and Goal 17 (Coastal Shorelands).

With regard to OAR 660-30-005 (2)(A), which defines "rules and programs which affect land use" (land use programs) as state agency rules and programs which are specifically referenced in the statewide planning goals; Goal 15 and Goal 17 each specifically mention the Forest Practices Program within the Goal language. However, as a result of HB 3396 (1987), the Forest Practices Act is expressly exempted by ORS 197.180(11) and 197.277 from any requirements of ORS 197.180 applying to rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.730 and 527.990 (the Forest Practices Act). No other Department program is specifically referenced (as programs affecting land use) in the statewide planning goals.

## **2. DISCUSSION OF DEPARTMENT PROGRAMS VERSUS CRITERIA FOR DETERMINING IF PROGRAMS "AFFECT LAND USE"**

The criteria to determine if a significant effect probably exists have been applied to each of the 7 major programs, 6 subprograms and the Forestry Program for Oregon. Each program and subprogram (including the Forestry Program for Oregon) is discussed individually below in the same order they were described in Section II(A)(2). Based upon the application of these criteria, the Department has determined that only certain actions and decisions of the Administrative Services Program and the State Lands Program affect land use.

### **a. PROTECTION FROM FIRE**

#### **i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. The Protection From Fire Program does not authorize any development action, property management action or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s).

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

No. The program may amend slash management plans for state lands. However, these plans do not include protection standards or definitions applicable to local government for goal compliance.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. The program administers the Rural Community Fire Protection Fund (RCFP) grant. The RCFP is a matching federal grant program (50% cost share) used to help organize, train and equip Rural Fire Protection Districts (RFPD). The RCFP funds cannot be used for RFPD facility development or improvement. The training and equipping of RFPDs is not regulated by nor do they require the approval of local government. Some elements of the organization of RFPDs, such as approval of RFD boundaries, are regulated by local government. However, these elements are not projects, facilities, or improvements.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No. The program does not cause or lead to changes in land use. The services of the program are provided regardless of current land use; and are dependent upon the existence of forest land as defined by ORS Chapter 477, and the land being within a forest protection district. The Department's discretion to not protect some forest land (small and/or isolated tracts) does not have any known land use effects. The Department's conference with the petitioners of RFPD formation or annexation are advisory and do not cause or lead to land use changes.

Uncontrolled fire can have significant effects on or destroy many natural and cultural resources identified in the statewide goals. Forest fires may threaten or destroy man-made facilities located on forest land. The Protection From Fire Program reduces the effects of fire on these resources. Fire suppression actions conducted by the program may have incidental effects on some resources. For example, construction of fire line may impact cultural sites.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

**ii. Conclusion**

The Department has concluded that the Protection From Fire Program is not a land use program. As discussed above, it is unlikely that this program would have a significant effect on the present or future land uses identified in acknowledged comprehensive plans. Also, as pointed out above, land uses are not a consideration in providing protection services nor does providing such services affect the uses of land.

**b. SMOKE MANAGEMENT**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. Establishing state standards that meet federal air quality and emission standards from non-point sources is the responsibility of DEQ through the SIP. Through the Smoke Management Plan the Department of Forestry ensures that methods and procedures (implementation strategy) that will meet the provisions of the state-adopted control strategy (SIP) are achieved. Slash burning as a forest management action (operation) is regulated by the Forest Practices Act and therefore cannot be regulated by local government.

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

No. The program can adopt and amend slash burning plans for state lands. However, these plans do not include protection standards or definitions applicable to local government for goal compliance.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No. Procedures in the Smoke Management Plan allow continued use of forest land for the growing and harvesting of forest tree species while also ensuring that federal and state air quality standards are met.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

**ii. Conclusion**

The Department has concluded the Smoke Management Program is not a land use program. As discussed, the SMP is a program element of DEQ's air quality program which is administered by the Department of Forestry since the Department has the necessary expertise and appropriate permit system in place.

**c. COUNTY FOREST LAND CLASSIFICATION**

**i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. The elements of this program related to assisting landowners do not authorize the action and have not been applied in many years.

**Criterion 2:** Does the program adopt or amend management plans for state lands that include protection standards or definitions applicable to local governments for goal compliance?

No.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. The program does not approve grants or provide financial assistance.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No. Assessing grazing lands separately from timberlands does not affect the way lands are used, nor would it cause a change in land use. The purpose of the system is to recognize the difference in fire protection costs which occur due to different fuel loads. The lands are not assessed with regard for zoning or actual use, though these factors may affect the fire protection classification of the land.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

**ii. Conclusion**

The Department has concluded that the County Forest Land Classification Subprogram is unlikely to have a significant effect on resources, objectives or areas identified in the statewide planning goals or present or future land uses identified in acknowledged comprehensive plans and is, therefore, not a land use program.

**d. STATE FOREST MANAGEMENT**

**i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

Yes. The program may authorize public and private development actions, property management actions, and facility construction and improvements which are regulated by local government.

The Department has authority to manage nearly 786,000 acres of forest land "so as to secure the greatest permanent value of such lands to the state." Included within this authority is the authority to: (1) acquire, exchange or sell forest land; (2) sell timber and other forest products; (3) execute mining leases; (4) permit the use of the lands for other purposes, including forage and browse for domestic livestock,

recreation, and protection of water supplies; (5) grant easements, permits and licenses over, through and across the land; (6) charge for the use of state forest roads, and (7) sell rock, sand, gravel, pumice and other such material from the lands.

Most state-owned forest land is within zones adopted by local government pursuant to the Forest Land Goal (Goal 4). However, some state-owned forest land is near or in other zones adopted pursuant to other Statewide Planning Goals or within urban growth boundaries. Most of the uses the Department is authorized to permit on state-owned forest land are outright uses in forest zones. However, some of the uses the Department may be authorized to permit may be conditional uses or prohibited uses in some zones.

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

Yes. Management plans that include protection standards and definitions applicable to local governments for goal compliance are adopted by the program.

Under this program, the Department develops forest use classifications and plans for the management of state owned land. Plans include, long range plans, block and transportation plans, and operation plans.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

Yes. Program decisions may lead to major changes in land use, for example the sale of rock, sand, gravel, pumice and other such material from the lands may result in major changes in land use.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

## **ii. Conclusion**

Some elements of the State Forest Management Program affect land use. The elements of the State Forest Land Management Program that affect land use are: (a) Land use designations; (b) Plans (long range, block plans, annual operation plans and transportation plans); (c) Land acquisition, sale or exchange; (d) Other forest uses (recreation, wildlife uses, etc.) and non-forest uses (such as, commercial mining of rock, sand, gravel, pumice and other such material from the lands, powerlines, reservoirs, etc.); and (e) On State forest lands within urban growth boundaries.

## **e. FORESTRY ASSISTANCE**

The Forestry Assistance Program is composed of three subprograms: Insect and Disease, Service Forestry, and Tree Improvement and Forest Nursery. These programs are discussed individually below.

## **f. INSECT AND DISEASE**

### **i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. This program may infrequently require that landowners take actions to control outbreaks of insects or disease on their lands and as such authorizes property management action. Such control actions are required based upon a number of factors, which may include the actual use of the land, the productive capability of the land for growing timber, the influence of the land on adjacent forest lands and the public interest. However, the choice by the Board of Forestry to direct treatment of an insect or disease outbreak does not change the use of the land by the landowner nor influence local governments' designation of land uses. Forest practices used to control forest pests (insects and disease) are regulated exclusively by the Forest Practices Act and cannot be regulated by local government.

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

No.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. Financial assistance for required control actions may be approved by the Board of Forestry. However, as noted above, forest practices cannot be regulated by local government and local government land use approval cannot be required.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No. Protection of forests from insects and disease does not result in changes to land use, though such protection may encourage the maintenance of forest uses.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

## **ii. Conclusion**

The Department has concluded that the insect and disease program is unlikely to have a significant effect on resources, objectives or areas identified in the statewide planning goals or present or future land uses identified in acknowledged comprehensive plans. This program does not affect the way lands are used under the land use planning program. Insect and disease control projects implemented through this program are regulated as forest operations under the Forest Practices Act. Therefore, the insect and disease program is not a land use program.

## **g. SERVICE FORESTRY**

### **i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. The program does certify landowners to receive special tax treatment or to receive cost-share assistance. However, such certification, by itself, does not authorize landowners to take development actions, property management action, or facility construction or improvement.

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

No. The Department may assist private landowners develop individual forest management plans. However, these plans are implemented by the private landowners. Authorization to implement the plan is not provided by the Department.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. Though the Department is involved in the administration of federal grant programs (cost-share), the Department's role is advisory. Approval of cost-share is done by the Agricultural Stabilization and Conservation Service (ASCS) and local Agricultural Stabilization and Conservation (ASC) committee. The Department certifies to these bodies that the practices which the landowner intends to implement are needed and feasible. However, final approval is through ASCS and ASC.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No. The Department's decisions relative to the tax programs provide incentives for maintaining land in resource uses, rather than causing changes in use.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

## **ii. Conclusion**

This program is unlikely to have a significant effect on resources, objectives or areas identified in the statewide planning goals or present or future land uses identified in acknowledged comprehensive plans. This program does not affect the way lands are used under the land use planning program. Services and incentives provided to forest landowners under this program are at their request and participation is voluntary. Therefore, the Service Forestry Program is not a land use program.

## **h. TREE IMPROVEMENT AND FOREST NURSERY**

### **i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. If expansion of the J.E. Schroeder Forest Seed Orchard or the D. L. Phipps State Forest Nursery or purchase of a new orchard or nursery were contemplated, such actions would be administered by the Administrative Services Program.

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

No.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land

use approval of the affected local government(s)?

No.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

## **ii. Conclusion**

The Tree Improvement and Forest Nursery Program is not a land use program. This program does not affect the way lands are used under the land use planning program. Seedlings and genetically superior seed offered through this program enhance reforestation opportunities and the growth of timber. The choice of landowners to utilize the services offered and/or to participate with the Department is voluntary. Such a choice by a landowner will not have a significant effect on resources, objectives or areas identified in the planning goals or present or future land uses identified in comprehensive plans.

## **i. COOPERATIVE FIRE**

### **i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. The program is performed through written cooperative agreements with landowners. Work projects include slash burning, fire trail construction, road maintenance, and stream improvement. Work performed by Department crews and resources is authorized and directed by the using landowner, including obtaining land use approval when needed.

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

No.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. Grants or financial assistance are not provided by the program. Actual costs of work performed is reimbursed by the using landowner.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

**ii. Conclusion**

The Cooperative Fire Program is not a land use program. The type of work performed under this program is unlikely to have any land use effects and the Department does not authorize any of the work.

**j. FOREST PRACTICES**

**i. Application of "Significant Effect" Criteria**

Not applicable, program is exempt.

The Forest Practices Act is expressly exempted by ORS 197.180(11) and 197.277 from any requirements of ORS 197.180 applying to rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.730 and 527.990 (the Forest Practices Act).

ORS 197.180(11) states:

"This section does not apply to rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.730 and 527.990 (1)."

ORS 197.277 states:

"197.277 Oregon forest Practices Act; exclusion. (1) The goals and rules established in ORS chapters 196 and 197 do not apply to programs, rules, procedures, determinations or activities carried out under the Forest Practices Act administered under ORS 527.610 to 527.730 and 527.990 (1).

(2) No goal or rule shall be adopted, construed or administered in a manner to require or allow local governments to take any action prohibited by ORS 527.722.

(3) The commission shall amend goals and rules as necessary to implement ORS 197.180, 197.277, 197.825, 215.050, 447.090, 477.440, 477.460, 526.009, 527.016, 527.620, 527.630, 527.660, 527.670, 527.683 to 527.687, 527.715, 527.735, 527.990, and 527.992."

**ii. Conclusion**

Program is exempt, therefore it is not a "program affecting land use".

**k. FOREST RESOURCE PLANNING**

**i. Application of "Significant Effect" Criteria**

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. This program does not authorize any such actions, construction or improvements.

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

No.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land

use approval of the affected local government(s)?

No.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

No. Board land use policy contained in the FPFO are recommendations and are not legally binding upon local government or forest landowners. Technical advice provided by the Department to local government is also not legally binding.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No. Once a plan or regulation is acknowledged, the Department, when reviewing proposed land use actions, accedes to the plan or regulation.

## ii. Conclusion

The Forest Resources Planning Program is not a land use program. Activities related to land use conducted through this program are advisory and not legally binding.

## I. ADMINISTRATIVE SERVICES

### i. Application of "Significant Effect" Criteria

**Criterion 1:** Does the program authorize a public or private development action, property management action, or facility construction or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

Yes. This program includes the element of planning, supervising and coordinating construction and remodeling projects (Capital Construction and Improvement) for the Department's administrative sites, purchase of additional or new lands for administrative sites, including the nursery and seed orchard, and approval of certain non-forest uses on state-owned land.

This program element has the potential to have significant effects on future and present land uses identified in the acknowledged comprehensive plans of cities or counties where the Department's capital construction and improvement may occur, especially in Salem.

Such effects may include impacts on local policies, requirements and programs relating to traffic flow, aesthetics, public facilities and services, and economic development.

In the Salem city limits, the Department's construction and improvement projects are reviewed and approved by the Capitol Planning Commission (CPC) for consistency with the Commission's Long Range Plans. Under ORS 276.028 et. seq., the CPC is required to adopt development plans for state-owned properties in Salem.

Upon adoption, each development plan, which includes maps, policies, and standards, becomes a cooperative state-local agreement to assure both the state and affected local jurisdictions (and their neighborhoods) how development in and around state-owned land and facilities will occur.

CPC adoption of these long range plans also is intended to coordinate state capital construction and improvement projects with Salem's acknowledged comprehensive plan, and thereby minimize the need for separate, detailed local zoning and planning relative to state-owned lands and facilities.

The Department's Biennial Capital Construction and Improvement Projects are included in the

Department's budget.

In addition to Salem, administrative sites are located throughout the state in communities such as; Forest Grove, Tillamook, Astoria, Coos Bay, Prineville, John Day, Medford, Grants Pass, Sisters, La Grande, Pendleton, Wallowa, Lakeview, Klamath Falls, Springfield, and Veneta. In these non-Salem locations, the local comprehensive plan provides the mechanism for coordinating the Department's capital construction, capital improvement, property development or land acquisition plans and local land use policies.

Additionally, this program approves certain non-forest uses, such as radio repeater towers, on state forest lands, likely to be regulated by or require the land use approval of the affected local government(s).

**Criterion 2:** Does the program adopt or amend management plans for state lands that includes protection standards or definitions applicable to local governments for goal compliance?

Yes.

**Criterion 3:** Does the program approve a grant or other type of financial assistance to support or develop or expand a major public or private project, facility or improvement likely to be regulated by or require the land use approval of the affected local government(s)?

No. The program does not approve any grants or provide any financial assistance.

**Criterion 4:** Does the ODF program action or decision significantly affect the public interest in terms of causing or leading to a major change in land use?

Yes, that is possible.

**Criterion 5:** The affected local government(s) would be required to amend a local plan or regulation due to a Department of Forestry program action or decision?

No.

## **ii. Conclusion**

This program does significantly affect land use. The above analysis shows that the program elements of capital construction, capital improvement, property development or land acquisition may each affect land use.

## **C. ANALYSIS OF PERMITS AFFECTING LAND USE**

### **1. GENERAL DISCUSSION**

Oregon Administrative Rule Chapter 660, Division 31 requires that agencies shall identify "state permits that affect land use." For each "permit that affects land use," the agency shall also describe the process used to assure compliance with the Statewide Planning Goals and compatibility with acknowledged comprehensive plans and land use regulations.

The applicable rules also classifies state permits based upon public notice and public hearing requirements and lists state agency permits affecting land use. None of the permits issued by the Department are listed in the rules as either a Class A or Class B Permit.

The Department issues the following permits:

Protection from Fire Program:

- Burning Permits
- Permits to use fire or operate power-driven machinery
- Sawmill Permit
- Permit to clear rights of way

State Lands Program:

- Woodcutting Permits
- Miscellaneous Forest Products Permits

Forest Practices Program:

- Approval of specific practices related to specified sensitive resources.

All the permits issued by the Protection from Fire Program are used to prescribe conditions under which the indicated activities must be conducted to ensure fire safety. The State Lands Program permits are used to authorize the public removal of firewood or miscellaneous forest products, such as ferns, seedlings, etc. from state forest lands. The Forest Practices program is expressly exempt from the requirements of ORS 197.180. The Department has concluded none of the permits issued by the Department (subject to ORS 197.180) are permits that affect land use.

**SECTION III  
PROGRAM TO ASSURE COMPLIANCE WITH STATEWIDE GOALS  
AND COMPATIBILITY WITH ACKNOWLEDGED  
COMPREHENSIVE PLANS AND LAND USE REGULATIONS**

**A. INTRODUCTION**

The purpose of this section is to describe how the Department of Forestry will assure that its land use programs comply with statewide land use planning goals and are compatible with acknowledged city and county comprehensive plans and land use regulations. The Forest Practices Act and its regulatory program are exempt from the requirements of ORS 197.180. The Department's two programs affecting land use (land use programs) are the State Forest Management Program and the Administrative Services Program

**B. EXEMPT AND COMPATIBLE LAND USE PROGRAMS**

**1. The Forest Practices Act**

The Forest Practices Act is expressly exempted by ORS 197.180(11) and 197.277 from any requirements of ORS 197.180 applying to rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.730 and 527.990 (the Forest Practices Act).

The exemption of the Forest Practices Act was an element of House Bill 3396 passed by the 1987 Legislature. Additional information about the relationship of the Forest Practices Act to local government land use programs is included in Section V, Program for Cooperation and Technical Assistance.

**2. Other Programs**

Neither of the Department's two land use programs come under the category of "exempt". There are no applicable statutes, constitutional provisions or appellate court decisions which expressly exempt these remaining programs from compatibility with acknowledged comprehensive plans, but not from compliance with the statewide planning goals.

**C. DEPARTMENT RULES AND PROCEDURES TO ASSURE COMPLIANCE WITH STATEWIDE PLANNING GOALS**

Except where it is necessary for the Department to adopt findings for compliance with the statewide planning goals, the Department shall achieve goal compliance by acting compatibly with acknowledged comprehensive plans and land use regulations.

The Board of Forestry has adopted administrative rules, OAR 629-20-000 through 629-20-080, to implement the state agency goal compliance and comprehensive plan compatibility requirements in ORS 197.180 and OAR 660, Division 30 for the two Department programs determined to affect land use. OARs 629-20-020 and 629-20-030, implement the state agency goal compliance requirement. OAR-20-020 requires the Department to find that actions and projects taken under its two programs that affect land use are in compliance with the statewide goals. The rule states:

"OAR 629-20-020 Prior to undertaking any action or program listed in OAR 629-20-010, the Department shall find that the program or action complies with the statewide planning goals and is compatible with acknowledged comprehensive plans and land use regulations. The Department shall make its goal compliance and plan compatibility findings in accordance with OAR 629-20-000 through OAR 629-20-080."

Based upon the fact that comprehensive plans are acknowledged to be in compliance with the statewide goals,

it is the position of the Department that when it acts compatibly with an acknowledged comprehensive plan, it is acting in compliance with the goals.

Consistent with this position, the Board of Forestry has adopted specific procedures in OAR 629-20-030 to assure compliance of the Department's land use programs with the statewide goals. [OAR 629-20-030 is also a policy of compliance with the statewide planning goals.] The rule states:

"629-20-030 (1) The Department shall attempt to achieve goal compliance whenever possible by taking actions that are compatible with the acknowledged comprehensive plans of the applicable local governing body.

(2) Except where it is necessary for the Department to adopt findings for compliance with the statewide planning goals, the Department shall achieve goal compliance by acting compatibly with acknowledged comprehensive plans and land use regulations.

(3) An action within a land use program of the Department is considered by the Department to be in compliance with the statewide planning goals, when such action is compatible with the acknowledged comprehensive plan and land use regulations of the applicable local governing body."

However, in the event that the Department is ever required to adopt compliance findings against any of the state goals, procedures are included in OAR 629-20-030 to address such a situation. OAR 629-20-030 (4) states:

"629-20-030(4) In the event that the Department is required to adopt compliance findings against any of the statewide goals, the Department shall adhere to the following procedures:

(a) Confirm that a situation exists pursuant to OAR 660-30-065 (3) which requires the Department to adopt findings of compliance with one or more of the statewide planning goals;

(b) Identify the specific statewide planning goal(s) or goal requirements the Department must address;

(c) Consult directly with the affected jurisdiction(s);

(d) Request interpretive guidance from DLCD and the Attorney General's office;

(e) Rely on any relevant Goal interpretations for state agencies adopted by LCDC under OAR Chapter 660;

(f) Adopt any necessary findings to assure compliance with the statewide planning goals."

#### **D. DEPARTMENT RULES AND PROCEDURES FOR ASSURING COMPATIBILITY WITH ACKNOWLEDGED COMPREHENSIVE PLANS**

To assure compatibility of Department land use programs with acknowledged comprehensive plans, the Board of Forestry has adopted OARs 629-20-010 and 629-20-020.

OAR 629-20-020 (cited above), requires the Department to find that actions and projects that affect land use taken under its two land use programs are compatible with acknowledged city and county comprehensive plans and land use regulations.

OAR 629-20-040 includes the specific procedures that the Department shall follow in making its compatibility findings.

Additional information about: (1) the land use program elements requiring compatibility, (2) the Department's administrative procedures (in addition to the procedures included in OAR 629-20-040) related to compatibility,

(3) and the compatibility procedures included in OAR 629-20-040 are described in the text below. The compatibility procedures included in OAR 629-20-040 are indicated by bold type and enclosed in quotes.

## **1. Administrative Services Program:**

### **a. Compatibility of the Department's Administrative Services Program with acknowledged comprehensive plans**

The majority of the activities and programs of the Administrative Service Program, including facility maintenance, motor pool, and finance, do not significantly affect land use. However, the program elements related to the siting and construction of new facilities, the expansion of existing facilities, and approval and siting of some non-forest uses on state-owned forest land have been determined to affect land use and therefore, need procedures to ensure compatibility. More specifically, these program elements include:

1. Construction, improvement, relocation and removal of state-owned buildings or facilities (including radio towers, repeaters, etc. owned and operated by the Department).
2. Purchase of additional land for administrative sites, including nursery or seed orchard.
3. Approval by the Department of some non-forest uses (radio towers, repeater buildings, etc.) owned and operated by other parties on state-owned forest land.

It is the intent of the Department when implementing any of the projects listed above, to act the same as does any other similarly situated landowner to assure plan compatibility and goal compliance. Whenever the Department implements projects included within these elements listed above, the following standards and procedures will be followed to ensure compatibility.

### **b. Standards and procedures**

#### **i. Construction, improvement, relocation and removal of state-owned buildings and purchase of additional land for Department administrative sites, including nursery or seed orchard.**

**Long-Range Plans.** Each District and Salem headquarters will prepare long-range plans for each administrative site that includes **capital construction, capital improvement, removal or relocation.** These plans will remain in the district or division and will include projects to meet current and future site needs, **including additional land for nursery or seed orchard.** During long-range plan development, the following will be determined:

1. The proposed projects and actions are permitted under the jurisdiction's comprehensive plan. This will be documented in the plan by including documentation from the local jurisdiction's comprehensive plan and applicable ordinances.
2. If variances are needed for approval of a proposed project or action, then completing the variance application and approval procedures will be documented.

#### **Project Plan Development.**

Preliminary project plans will be used to gain local government approval of a proposed project or action. These preliminary plans will be used as the basis for ensuring compatibility of a project or action with acknowledged comprehensive plans and land use regulations. Preliminary project plans will include:

- \* Proposed use.
- \* General facilities layout showing the proposed project location.
- \* Proposed type of construction.

- \* Preliminary construction plans including facilities layout, heating system, plumbing, electrical, telephone, and computer needs.
- \* Identification and explanation of controversial issues facing the project.
- \* Site plans.

To assure compatibility of the Department's Administrative Services Program with acknowledged comprehensive plans, OAR 629-20-040 states:

**"629-20-040 (1) In order to approve or undertake, a capital construction project, capital improvement project, property development project or land acquisition project under the Administrative Service Program, the Department shall find that the project complies with and is compatible with acknowledged city and county comprehensive plans and land use regulations. To make its compatibility findings, the Department shall comply with the following procedures:**

**(a) The Department shall make application for local government approval of a Department project where necessary. A Department decision to proceed with a project or action shall not be made until either of the following two procedures are completed:**

**(i) A copy of the local land use permit or equivalent documentation is acquired from the applicable local governing body or its designee that the proposed project or action has received land use approval is attached to the preliminary plan; or**

**(ii) A letter or some other form of verification is acquired from the applicable local governing body or its designee stating that the proposed project or action is permitted under the jurisdiction's comprehensive plan but does not require specific land use approval.**

**(b) Final project plans will be developed after the local government approval required above has been obtained. The final project plans shall incorporate the conditions established by the local governing body for final approval."**

The Capitol Planning Commission is authorized by ORS 276.030 through 276.043 to establish and implement a long-range plan of development for the capitol area and all other state-owned areas in the Salem metropolitan area and the unincorporated areas of Marion and Polk Counties. The purpose of this planning is to coordinate the acquisition of real property and the construction of buildings by the state. The Commission conducts continuing studies and analyses of the building needs of all state agencies. It adopts standards for the development of these state buildings and grounds and investigates and approves all plans of state agencies concerning proposed remodeling or construction in these areas for compliance with the standards. In addition to the standards and procedures listed above, OAR 629-20-040 states:

**"629-20-040 (2) The Department shall satisfy its goal compliance and plan compatibility findings for a capital construction or improvement project approved under the Administrative Services Program in the Salem metropolitan area and subject to the jurisdiction of the Capitol Planning Commission (CPC) by adhering to the CPC's land use coordination rules in OAR Chapter 110, Division 10, and the procedure contained in the CPC's certified State Agency Coordination Program."**

**ii. Approval by the Department of some non-forest uses or facilities (radio towers, repeater buildings, etc.) owned and operated by other parties on state-owned forest land.**

To assure compatibility of the Department's Administrative Services Program approval of some non-forest uses or facilities owned and operated by other parties on state-owned forest land with acknowledged comprehensive plans, OAR 629-20-040 states:

**"629-20-040 (3) Applicants seeking approval to locate non-forest uses or facilities such as radio towers,**

microwave sites, radio repeater buildings on state-owned forest land (under management by the Department) shall provide information to the Department assuring the proposed project is in compliance with the statewide planning goals and is compatible with any applicable comprehensive plans and land use regulations. Such documentation shall be submitted to the Department prior to Department approval and shall include:

(a) A copy of the local land use permit or equivalent documentation is acquired from the applicable local governing body or its designee that the proposed project or action has received land use approval is attached to the preliminary plan; or

(b) A letter or some other form of verification is acquired from the applicable local governing body or its designee stating that the proposed project or action is permitted under the jurisdiction's comprehensive plan but does not require specific land use approval."

## **2. State Forest Land Program:**

### **i. Compatibility of the State Forest Land Management Program with acknowledged comprehensive plans**

The elements of the State Forest Land Management Program that affect land use include:

a. Land use designations.

b. Plans (long range, block plans, annual operation plans and transportation plans).

c. Land acquisition, sale or exchange.

d. Other forest uses (recreation, wildlife uses, etc.) and non-forest uses (such as, commercial mining of rock, sand, gravel, pumice and other such material from the lands, powerlines, reservoirs, etc.). Note: Mined land reclamation permits are required from DOGAMI for commercial mining operations in excess of 5000 cubic yards.

e. On State forest lands within urban growth boundaries (subject to local government regulation of forest practices).

To achieve compatibility, each of the above elements are dealt with separately in the standards and procedures section below.

### **b. Standards and Procedures**

#### **i. Land Use Designations**

##### **Common School Lands**

The State Land Board is charged by Article VIII, Section 5 of the Oregon Constitution with the management of Common School Forest Land with the object of obtaining the greatest benefit for the people of this state. The primary objectives for the management of the Common School Forest Land, as specified in the Timber Management Contract between the Oregon State Land Board and the Department of Forestry, shall be the generation of the greatest amount of income for the addition to the corpus of the Common School Fund as is consistent with sound techniques of land and timber management.

To meet this objective all Common School Land land use designations are approved by the State Land Board. The Common School Lands are subject to the same land use designations and procedures as described below for Board of Forestry Lands.

##### **Board of Forestry Lands**

The majority of these lands were acquired by the counties through tax delinquency foreclosure and deeded to the Board of Forestry during the 1930s and 1940s. However, some of the lands were deeded to the Board of Forestry under other circumstances. Some of the lands deeded to the Board have specific deed restrictions regarding use of the land. For the majority of the lands that were deeded to the Board by the counties, an implied trust relationship, rather than a written trust relationship, exists. Agreements made with the counties at the time of deeding, and later modified and incorporated in ORS, specify the disposition of revenues from the trust lands.

ORS 530.050 directs that the State Forester, under authority of the Board of Forestry, shall manage the lands to secure their greatest permanent value to the state. The basic goal is to provide a sustained contribution to the people of Oregon by managing the growth and harvest of the forests in a cost-effective and environmentally sound manner. Timber production is tempered by the need to protect soils, streams, wildlife habitat, recreational opportunities, and other environmental values to achieve a balanced management program.

To achieve a balanced management program for these lands, Board of Forestry lands are placed into four different land use categories by the Department of Forestry; regular production, scenic production, land withdrawn for operational reasons, and land withdrawn for environmental reasons.

- Regular Production Land use is currently specified on 88% State Forest Land. This land is managed primarily for timber production but with due consideration for other uses. Forest operations on these lands are designed to meet or exceed the standards of the Forest Practices Act.
- Scenic Production is currently specified on 2% of the lands. This classification is managed in a way that attempts to minimize the scenic impacts from harvesting.
- Approximately 1% of State Forest Land has been currently withdrawn from the regulation base for operational reasons, including administrative sites, transmission line rights-of-way, inaccessible areas, and unloggable areas (a "conservancy" designation).
- Approximately nine percent of State Forest Land has currently been withdrawn from the regulation base for environmental reasons including watersheds, recreation areas, scenic and protective conservancy areas, riparian zones, and noncommercial soil types (a "conservancy" designation).

These land use classifications provide the basis for both project and forest-wide planning. Allocations to use classifications are made by Department foresters and approved by the Deputy State Forester. It is the District Forester's responsibility to review local government comprehensive plans and designate land use appropriately.

All land use classifications are up-dated on a five year basis, during long-range planning.

To ensure compatibility of the Department's land use designations with acknowledged comprehensive plans the following procedures in OAR 629-20-040 will be followed:

**"629-20-040 (5)(a)(i) When land use classifications are updated, the District Forester will review state forest land use designations with affected local governments and request their comments on the compatibility of the land use designations with the comprehensive plan.**

**(ii) If a conflict or issue is raised by local government with regard to the compatibility of the land use designations, the dispute resolution process described under OAR 629-20-040 will be followed."**

## ii. Plans

The Department's planning process involves three levels of planning: Long-range plans, block and

transportation plans, and annual operation plans.

All plans are reviewed for and are consistent with the policy direction, legal requirement in Oregon Law, Board of Forestry policy, the contract between the State Land Board and the State Forester for management of Common School Forest Land, and acknowledged comprehensive plans.

Preparation of long-range plans involves Forest Management Division staff and a team of field foresters chosen by each Area Director. Long-range plans are made on a regional basis, and combine Board of Forestry and Common School Land ownerships for planning purposes.

Long-range plans focus on timber resources; however, uses of other resources are fully considered in making these plans. The plans determine the harvest schedules for districts and specific program objectives for forest management activities.

These activities are:

- Conifer Sales - Marketing of commercial conifer timber.
- Reforestation - Initial planting and additional reforestation work such as site preparation, animal damage control, interplanting, and release from competing vegetation.
- Hardwood Sales - Marketing of commercial hardwood timber.
- Precommercial Thinning - Spacing of trees 10 to 25 years old to increase diameter growth.
- Fertilization - Aerial application of nitrogen to forest stands to increase growth.
- Rehabilitation - Conversion of hardwood stands and brush fields to more productive conifer stands.

Block management plans are an intermediate level of planning. These plans take the strategies developed in the long-range plan and apply them to the geographic features of the forest to identify the management activities that must occur to implement the long-range plan. These activities are harvesting, development of road systems, reforestation and stand-tending, engineering, and surveying.

Annual planning is the third level of the planning process. Annual plans include timber sale, reforestation, and intensive management plans. These are developed from the block plans and show what activities are to be done, and how and where they are to be accomplished.

#### Long Range Plan Approval Process:

1. A draft plan is approved by the State Forester.
2. The draft plan is provided to and reviewed by affected agencies, including local government and state agencies.
3. The draft plan is made available to the public and public meeting(s) is (are) held. A presentation summarizing the plan is made at the meeting and public comment is taken.
4. The draft plan is reviewed with the Forest Trust Land Counties Advisory Committee and their comments and recommendations are given to the Board of Forestry.
5. Districts review the draft plan with affected local governments.
6. The draft plan is reviewed by the Board of Forestry.

7. The draft plan is approved by the State Land Board for the Common School Forest Land portion of the plan.
6. All comments and recommendations are reviewed by the State Forester for final approval.
9. State Forester adopts the plan.

The process used by the Department in developing block management plans and annual plans is less formal than the process used to develop long range plans, as the same number and levels of approval are not necessary. However, the same points of coordination with local government occur.

To ensure compatibility of the Department's plans with acknowledged comprehensive plans OAR 629-20-040 states:

**"629-20-040 (5)(b)(i) The District Forester will notify local government that a state forest plan is being developed and request their review and comment on the compatibility of the draft plan with the comprehensive plan.**

**(ii) If a conflict or issue is raised by local government with regard to the compatibility of the state forest plan, the dispute resolution process described under section E below will be followed."**

### **iii. Land Acquisition, Sale and Exchange:**

Pursuant to ORS 530.010, the Board of Forestry will acquire, exchange, or sell forest land (Board of Forestry Land) when such transactions are in the public interest. It is considered that public interest is served when transactions will:

1. Block in or dispose of existing State lands to increase effective and efficient forest management;
2. Provide access to State lands;
3. Connect and extend fire breaks or corridors required for protection of State lands;
4. Provide administrative sites necessary for the enforcement and administration of Oregon forest laws;
5. Provide for rehabilitation and reforestation of nonproductive lands, or management of existing timber stands, primarily for the production of forest crops on an economic basis where such lands are within the practical working area of an established State forest management headquarters;
6. Provide or protect public values in conjunction with, or other than, the yield of forest products; such public uses may include, but not be limited to, water production, recreation use, fish and wildlife production, research and education, grazing, erosion control, and scenic or aesthetic protection. Lands will be acquired for these values only where such lands are within the practical working area of an established State forest management headquarters and such public uses cannot or will not be otherwise protected.

With the above exceptions, it is the policy of the Board of Forestry that retention of the maximum possible proportion of forest land in private, tax-paying ownership is sound land policy.

In addition to land acquisitions, sales or exchanges of Board of Forestry lands, the State Forester may propose and initiate any exchange of Common School Forest Lands, or propose and initiate any exchange of timber on such lands, for land of approximately equal aggregate value, when such exchange furthers the purpose of the management of the lands.

Any exchange of land of the Elliot State Forest must be for the consolidation of the forest.

The State Land Board and the Board of Forestry are each separately required to approve such exchanges by resolution of the respective boards.

The county court or board of county commissioners of the county, or counties, in which such land is situated, shall approve such exchanges, and only after their approval shall the exchange be consummated.

To ensure compatibility of the Department's land acquisitions, sales and exchanges of Board of Forestry Lands and exchanges of Common School Forest Lands with acknowledged comprehensive plans the following procedures in OAR 629-20-040 will be followed:

**"629-20-040 (5)(c)(i) Prior to completing land acquisitions, sales or exchanges the appropriate District Forester will provide copies of the proposal to the appropriate local government for their review, comment and input.**

**(ii) Requirements for the acquisition of land in ORS 530.010 (Board of Forestry Lands), procedures for the exchange of land in ORS 530.040 (Board of Forestry Lands), and procedures for the exchange of land in ORS 530.510 (Common School Forest Lands) will be followed. ORS 530.010 requires that the Board shall not acquire land without prior approval, duly made and entered, of the county court or board of county commissioners of the county in which the lands are situated. ORS 530.040 requires that land exchanges between counties be similarly approved as the acquisition of land in ORS 539.010. Additionally, before making any exchanges, the Board of Forestry shall hold a hearing at the courthouse of the county in which the lands are situated and provide notice of the hearings in an appropriate newspaper. ORS 530.510 requires that the county court or board of county commissioners of the county, or counties, in which such land is situated, shall approve such exchanges, and only after their approval shall the exchange be consummated.**

**(iii) If a conflict or issue is raised by local government with regard to the compatibility of the acquisition, sale or exchange, the dispute resolution process described under OAR 629-20-050 will be followed."**

#### **iv. Other Forest Uses and Non-Forest Uses.**

The State Forester is authorized to permit other forest uses, such as recreational uses, watershed uses, and fish and wildlife uses on state-owned forest lands. Several primitive campgrounds and trails are maintained on these lands. These uses are generally outright uses in forest zones and not regulated by local government.

Those lands which, in the opinion of the State Forester, have exceptional scenic and/or fish or wildlife habitat values and on which commercial forest management would significantly degrade those values are classified as "conservancy". Lands of very limited value for commercial forest management because of very low potential productivity, unstable terrain, or dangerous working conditions are also classified as "conservancy".

These land use classifications are coordinated with local governments as discussed in section (i) above, to ensure that State and local planning requirements are met. The State Forester also coordinates with adjacent landowners regarding land use to insure reasonable compatibility.

Non-forest uses such as the development of rock, sand, gravel, pumice quarries and mining leases for the purpose of commercial mining operations may be permitted on state forest lands. Generally, such uses are also permitted uses in forest zones.

To ensure compatibility of the Department's other forest uses and nonforest uses with acknowledged comprehensive plans the succeeding procedures in OAR 629-20-040 will be followed:

"629-20-040 (5)(d)(i) Procedures outlined in OAR 629-20-040(5)(a) and (b) for assuring the compatibility of land use designations and plans will be followed to assure the compatibility of other forest uses with acknowledged comprehensive plans.

(ii) Prior to approving non-forest uses on state forest lands, the District Forester will provide copies of the proposal to the appropriate local government for their review, comment and input on the compatibility of the proposed use with the comprehensive plan.

(iii) If a conflict or issue is raised by local government with regard to the compatibility of the other forest use or non-forest use, the dispute resolution process described under OAR 629-20-040 will be followed."

**vi. State forest lands within urban growth boundaries (subject to local government regulation of forest practices)**

Some state forest lands are in, or near, urban growth boundaries. In particular, some state forest land in Clatsop County is within the city limits and UGB of the City of Astoria and some state forest land in Tillamook County is near the Bay City and Garibaldi UGBs.

State Forest lands that are currently within a UGB are subject to possible regulation of forest practices by local government. State Forest lands currently near the UGBs may at some point also be included within the UGBs.

To ensure compatibility of the Department's management of state forest lands within urban growth boundaries with acknowledged comprehensive plans, the following procedures in OAR 629-20-040 will be followed:

"629-20-040 (5)(e)(i) If state forest lands are currently within an urban growth boundary, the Department, through the local District Forester, will encourage the local government to appropriately adjust their urban growth boundary to place the state forest lands outside the urban growth boundary. If this cannot be done, then the District Forester will encourage the local government to adopt and enforce regulations on forest operations that are consistent with the Oregon Forest Practices Act.

(ii) If a local government decides to amend their urban growth boundary to encompass state forest land, the local District Forester will consult with the local government to determine their reasons for the urban growth boundary amendment. The Department will not support such amendments, unless the local government provides substantial evidence consistent with Goal 14 and Goal 2 supportive of the amendment.

(iii) Prior to commencing any forest operations within an urban growth boundary, the District Forester will consult with the appropriate local government to determine if forest operations are regulated by the local government. If forest operations are regulated, then the District Forester will ensure that a copy of the local land use permit or equivalent documentation is acquired from the applicable local governing body or its designee that the proposed forest operation has received land use approval."

**E. DISPUTE RESOLUTION**

It is the intent of the Department to achieve compatibility between Department land use programs and acknowledged comprehensive plans and land use regulations whenever possible. However, a situation may occur where the Department believes its statutory mandates, including but not limited to ORS Chapter 530 (Acquisition and Management of State Forests), may prevent the Department from meeting its land use compatibility responsibility under ORS 197.180. To address such a situation, the Board of Forestry has adopted OAR 629-20-050. The rule requires the Department to attempt to resolve all disputes regarding land use issues, including conflicting statutory obligations, by direct contact with the affected cities and counties. However, if no agreement can be reached, the procedures in OAR 629-20-050 will be followed to resolve land use disputes

concerning approval of a Department program or action. OAR 629-20-050 states:

**"629-20-050 It is the intent of the Department to achieve compatibility between Department land use programs and acknowledged comprehensive plans and land use regulations whenever possible. However, a situation may occur where the Department believes its statutory mandates, including but not limited to ORS Chapter 530 (Acquisition and Management of State Forests), may prevent the Department from meeting its land use compatibility responsibility under ORS 197.180. The Department shall attempt to resolve all disputes regarding land use issues, including conflicting statutory obligations, by direct contact with the affected cities and counties. However, if no agreement can be reached, the following procedures will be followed to resolve land use disputes concerning approval of a Department program or action:**

**(a) Hold direct discussions with the affected local government(s), DLCDC, and any other appropriate or affected persons or agencies in accordance with applicable informal dispute resolution procedures.**

**"(b) If the Department's statutory obligation remains in conflict after exhausting the appropriate procedures under (a) above, and the Department determines that it must act, the Board of Forestry (or its designated representative) shall adopt findings in writing explaining why it cannot act compatibly with applicable city or county comprehensive plans and land use regulations and then, adopt goal findings to assure compliance with the statewide goals in accord with OAR 660-30-065(3)."**

**(c) The Department shall provide a copy of the findings referenced in (b) above to applicable city or county governments and upon request, to other interested persons explaining the rationale for its decision.**

**(d) If the dispute is not resolved through steps (a)-(c) above, the Department may request informal mediation or a compatibility determination from the LCDC in accordance with OAR 660-30-070."**

## **F. COMPLIANCE AND COMPATIBILITY OF NEW OR AMENDED DEPARTMENT LAND USE PROGRAMS**

OAR 629-20-060 assures that new or amended agency rules and programs affecting land use will comply with the statewide planning goals and be compatible with acknowledged comprehensive plans and land use regulation. The Department will use the procedures in the rule to assure that new or amended agency rules and programs affecting land use will comply with the statewide goals and be compatible with acknowledged comprehensive plans and land use regulations. The rule states:

**"629-20-060 The Department will use the following procedures to assure that new or amended agency rules and programs affecting land use will comply with the statewide goals and be compatible with acknowledged comprehensive plans and land use regulations:**

**(a) The Department shall submit notice of any amendment to any Department program affecting land use or any new Department rule or program, except for amendments or new rules and programs related to the Oregon Forest Practices Act (which is expressly exempt from these requirements), to the Department of Land Conservation and Development as required by OAR 660-30-075.**

**(b) Such notice shall be provided to DLCDC in writing not less than 45 days before adoption of any amendment to a program affecting land use or adoption of any new rule or program.**

**(c) The notice provided to DLCDC shall demonstrate that the proposed new adoption or amendment:**

- (i) Does not affect land use and therefore is not a land use program,, or
- (ii) Affects land use and that goal compliance and comprehensive plan compatibility can be assured through the existing SAC Program procedures; or
- (iii) Affects land use and procedures in the certified SAC Program are not adequate to ensure compatibility and compliance. In this case, the notice shall include an explanation of how compliance and compatibility will be achieved in accordance with the applicable provisions of OAR 660-30-075."

**SECTION IV  
PROGRAM FOR COORDINATION WITH DLCD,  
AFFECTED STATE AND FEDERAL AGENCIES,  
AND SPECIAL DISTRICTS**

**A. INTRODUCTION**

Management and protection of Oregon's forest resources is a complex and demanding task requiring coordination with many agencies and many different forest landowners. The Department of Forestry, through the Board of Forestry, has broad authority to supervise all matters of forest policy and management under jurisdiction of the state. However, the direct jurisdiction of the Board and Department is limited by its statutory authority. Many of the policies and programs of the Board of Forestry can only be implemented by encouragement and promotion, as no statutory authority is provided to directly regulate many areas of land use concern.

The forests provide many outputs including timber, fish and wildlife, water, recreation, and grazing. Protecting the forest land base to ensure sufficient production of all these outputs demanded by Oregon, now and in the future, requires broad jurisdictional cooperation to achieve the policies and programs of the Board of Forestry and the Department of Forestry. With the exception of state-owned forest land, the Department does not have authority to allocate or establish land use. Therefore, in order to influence land use issues which affect the maintenance, production and protection of forest resources, the Department makes recommendation to agencies which allocate or zone forest lands and uses.

Additionally, the Department is directed or may be allowed by statute (for example, ORS 477.406, ORS 526.041, and ORS 527.710) to coordinate with federal or state agencies, local government, and forest landowners to achieve program objectives.

**B. AGENCIES COORDINATED WITH BY THE DEPARTMENT**

The Department routinely coordinates with the following agencies:

**Local:**

All 36 Counties  
The City of Astoria

**State:**

Department of Fish and Wildlife  
Department of Land Conservation and Development  
Capitol Planning Commission  
Governor's Office/Executive Department  
Intergovernmental Relations Division  
Division of State Lands  
Department of Environmental Quality  
Water Resources Department  
Department of Agriculture  
Oregon State University  
Department of State Parks  
Department of Transportation  
Health Division  
Department of Geology and Mineral Industries  
Economic Development Department

**Federal:**

U.S. Department of Agriculture, Forest Service  
U.S. Department of Agriculture, Soil Conservation Service  
U.S. Department of Interior, Bureau of Land Management  
U.S. Department of Interior, Fish and Wildlife Service  
U.S. Department of Interior, Bureau of Indian Affairs  
U.S. Department of Interior, National Park Service  
U.S. Department of Interior, Bureau of Reclamation  
U.S. Army Corps of Engineers  
Bonneville Power Administration  
Environmental Protection Agency

Others:

Indian Treaty Tribes  
Columbia River Gorge Commission

### **C. INTERAGENCY COORDINATION PROCEDURES**

The Department coordinates directly with the applicable local governing body where a Department project or action affecting land use is or may take place. The Department also coordinates with state and federal agencies on Department projects or actions affecting land use when necessary. Additionally, the Department coordinates with state agencies, federal agencies, and others on land use issues of concern to the Department. Generally, this type of coordination is to provide to state agencies, federal agencies and others, the Department's perspective on the compatibility of programs or actions they have proposed with the policies and programs of the "Forestry Program for Oregon".

Department contacts for interagency coordination will be determined by the type of program or action, and may include the Department Land Use Coordinator, a representative from the affected Department program, or local (field) land use planning coordinator (as designated by the District Forester). OAR 629-20-070 has been adopted by the Board to provide for coordination with affected state and federal agencies and special districts and includes the interagency coordination procedures described above.

### **D. INTERAGENCY COORDINATION CONTACT**

The Department's contact for interagency coordination is the Program Director of the Forest Resource Planning Program, or his designate. The current Program Director is:

Dave Stere  
Department of Forestry  
2600 State Street  
Salem, OR 97310  
(503) 378-5387

## SECTION V PROGRAM FOR COOPERATION AND TECHNICAL ASSISTANCE

### A. INTRODUCTION

The purpose of this section is to describe the Department of Forestry's program of cooperation and technical assistance with local government in land use planning issues. This program includes elements of cooperation and technical assistance for each of the Department's programs.

### B. DEPARTMENT OF FORESTRY PARTICIPATION IN AND COORDINATION WITH CITY AND COUNTY LAND USE PLANNING

As provided for in OAR 629-20-080, the Department will implement a program for cooperation and technical assistance with local government. The Department of Forestry directly participates in local government (predominantly county) planning programs in issues related to Goal 4, Forest Lands. Most counties do not have professional foresters on their planning staff. Thus, counties often rely upon the technical assistance of Department foresters on forest land issues. Additionally, it is the policy of the Board of Forestry to promote and support land use planning as a critical tool in Oregon to conserve the forest land base and to ensure that forest land uses are based on policy expressed in ORS 527.630(1), the Forest Practices Act and rules, the Forestry Program for Oregon, policies adopted by the Oregon Land Conservation and Development Commission (LCDC), and county comprehensive plans acknowledged by LCDC.

The Board has directed the Department to actively participate in local land use planning and regulations, including review of applications for forest dwellings and to promote the adoption of state land use policies and local land use ordinances that ensure that any partitioning of forest land is appropriate to allow efficient forest practices and the continuous growing and harvesting of forest tree species.

Technical advice provided by the Department to local government is often very important to local government in developing and approving plan amendments, approving land use actions and addressing issues during periodic review. Therefore, it is the policy of the department to provide technical advice which:

1. Is consistent with the local decision making process;
2. Is timely;
3. Provides an opportunity for local government interaction with the Department of Forestry for clarification; and
4. Makes available the technical and philosophical basis for the comments.

Participation and coordination with local government with regard to the programs herein determined to affect land use will be accomplished by the Department working directly with the responsible local government. This involvement will include coordination and participation among the Department, project sponsors, lessors, other affected parties as appropriate and the local jurisdiction to see that local land use and building requirements are addressed.

In the Salem Metropolitan Area, this will be accomplished principally through the Department's involvement with the Capitol Planning Commission.

### C. TECHNICAL ASSISTANCE AND INFORMATION AVAILABLE FROM THE DEPARTMENT AND METHODS USED TO PROVIDE THE INFORMATION TO LOCAL GOVERNMENT

## **1. Protection From Fire Program:**

The Protection From Fire Program provides technical assistance to local government about the possible consequences of wildfire to dwellings sited on forest land and opportunities for reducing those consequences. A number of brochures, booklets, videotapes and films are available through the program that provide information to forest landowners and local government officials on these matters. Additionally, the program provides technical assistance to local government in developing ordinances pursuant to the Goal 4 Administrative Rules on standards such as siting, access, fuel breaks, and water developments, as well as helping local government identify high fire hazard and risk areas. High fire risk areas are areas which due to vegetative cover, topography, climate and weather have a high potential for destructive forest fires. High fire hazard areas are areas that have a high potential for destructive forest fires and are already impacted by the siting of dwellings and other structures. Maps identifying these areas are available from the local Forest Protection Districts (District and Unit offices). Requests for technical assistance should be made to the local Forest Fire Protection District office.

The Protection From Fire Program has both financial and technical assistance available for the organization, training and equipping of Rural Fire Protection Districts. Additionally, some state and federal surplus equipment may be loaned/leased to RFPDs through this program.

The financial assistance is very limited and priority is given to newly forming Districts. Requests for applications for this assistance should be directed to the Protection From Fire Program in Salem.

Technical assistance and loan/lease of equipment to RFPDs is provided through the local Forest Protection District.

## **2. State Forest Management:**

Information about State Forest land use designations and long range plans, block plans and transportation plans, annual operation plans is available from the State Forest Management Program. Requests for this information should be made to the appropriate District office.

Information about significant mineral and aggregate (mainly rock resources) resources on State Forest land is available from the appropriate District office on request.

Brochures about recreational opportunities on state forest lands are available from the appropriate local District offices or from the Department's Public Affairs section (in Salem). These brochures describe hiking trails and other recreational facilities on state forest lands.

Firewood cutting information about opportunities on state forest land is available from the local field offices.

## **3. Forestry Assistance Program:**

### a. Insect and Disease

Extensive forest damage surveys are conducted state-wide each year. Maps showing damage by causes and trend data by causes are available to non-federal landowners, including local government.

Intensive pest surveys may be done at landowner request. At times, the Department will perform the survey, with the requesting landowner(s) paying the costs. Alternatively, the Department can train landowners, including local government to conduct surveys.

On-site workshops on I&D problems and opportunities are held throughout the state each year for non-federal forest landowners and other interested parties. A fee may be charged to cover the costs of

training materials.

Diagnostic services on materials delivered to the insect and disease laboratory will be provided to non-federal forest landowners, including local government.

On-site technical advice may be provided to non-federal forest landowners, including local government. A charge or fee for this service may be required.

All requests for technical assistance from the Insect and Disease Program should be made to the Insect and Disease Program Director in Salem (see Department directory in Appendix C ).

#### b. Service Forestry

The Department has prepared a number of informational brochures and resource catalogs to assist private forest landowners in the management of their lands. These materials may be useful to local government in providing assistance to forest landowners. Appendix H includes a list of these materials. Requests for these materials should be made to the local Service Foresters.

Limited technical information to assist local government in their development of urban forestry programs is available through this program. Requests for this information should be made to the Service Forestry Program in Salem.

#### c. Tree Improvement and Forest Nursery:

Seedlings from the forest nursery may be available for forest lands owned by local government. Information on availability, price and ordering information for tree seedlings is available from the local Service Forester or the Service Forestry Program in Salem.

### **4. Cooperative Fire:**

Department Coop Crews may be available to assist local government carry out specific natural resource work projects. Actual costs of the work performed must be reimbursed by the using party. Additionally, the work performed cannot be in competition with available private services. For availability of crews to assist local government in such projects, the local Department District office should be contacted.

### **5. Forest Practices:**

Technical information about forest practices is available from the Forest Practices Program in Salem. This information includes copies of forest practice rules, reports on program activities and accomplishments, and Forest Practices Notes. Forest Practices Notes are a series of publications describing specific elements of the forest practices program, for example riparian protection or waterbarring.

Criteria to identify, inventory and protect four types of sensitive resource sites are being developed by the Board of Forestry. ORS 527.710, amended by HB 3396, requires that the Board of Forestry shall collect and analyze the best available information and establish inventories of the following resource sites needing protection (from forest practices):

- 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.

The Board is also required to determine whether forest practices would conflict with resource sites in the required inventories. If the Board determines that one or more forest practices would conflict with the resource in the inventory, the Board shall consider the consequences of the conflicting uses and determine appropriate levels of protection. Based upon this analysis, the Board is required to adopt rules appropriate to protect the resource sites (from forest practices).

The resource inventories developed by the Board may assist local government in inventorying and protecting some Goal 5 resources. Criteria to identify and protect each of these resource sites will be adopted in administrative rule by November, 1991. Each inventory is currently based on the best available information from the Department of Fish and Wildlife, the Department of Forestry, the Nature Conservancy and county comprehensive plans.

Inventories will be updated periodically as new resource site information becomes available. The inventory covers an area more extensive than acknowledged forest zones since the definition of forest land under the Forest Practices Act is broad. For example, an osprey nesting site survey may include nests along rivers within an exclusive farm use zone. A computerized data base will contain the inventories and can be accessed at each Department field office. Paper or electronic copies of the data base can be requested through the Forest Practices Program in Salem.

Based upon advice from the Attorney General, it is the Department's position that Forest practices within Urban Growth Boundaries (UGBs) are regulated by local government.

If a unit of local government chooses to adopt the Forest Practices Act as its standard for regulation of forest operations within a UGB, it may be possible to enter into cooperative agreements, under which the Department of Forestry would provide technical assistance to the local government in the administration of its program; however, the Department cannot provide enforcement of any such standards on behalf of local government, due to absence of authority to do so.

If the local government has individual needs that require regulations other than those in the Forest Practices Act, the Department, if requested, may provide technical assistance to the local government in its development of appropriate regulation.

The Department's District offices should be contacted with regard to forest practices in UGBs.

The role of the Department in the regulation of forest practices in UGBs is an important issue to local governments and this role will be further discussed with local governments and the Board of Forestry during 1990-1991. As a result of these discussions, changes in the Department's role are possible.

Forest practices outside Urban Growth Boundaries cannot be regulated by local government. ORS 527.722(1) prohibits local governments from adopting any rules, regulations or ordinances or "taking any other actions that prohibit, limit, regulate, subject to approval or in any way affect forest practices on forest land outside of an acknowledged urban growth boundary." However, ORS 527.722(3) allows counties to prohibit (emphasis added) forest practices on land for which an acknowledged exception to Goal 3 or Goal 4 has been taken.

Therefore, outside UGBs, local government cannot regulate forest operations. However, local government can prohibit forest practices on land for which an exception to an agricultural or forest land goal has been taken. If forest practices are allowed in a land use zone outside UGBs, then they can only be regulated by the Forest Practices Act as administered by the Department of Forestry.

Questions about the regulation of Forest Practices outside UGBs should be directed to the Department's District offices.

## **6. Forest Resource Planning and Policy:**

Information of interest to local government about forest resources, federal plans and Department policies and programs may be available through this program depending upon data availability and workload. Requests for information should be directed to the Program Director.

The Department has published a number of informational materials, including Arbor Day information, tree identification guides, and information about the Department's programs and budget that may be useful to local government. Additionally, the Department publishes the Forest Log bi-monthly. The Forest Log is a magazine that reports Board of Forestry and Department activities and current statewide forestry issues.

Finally, the Department maintains a citizen involvement program. The purpose of the citizen involvement program is to provide an opportunity for the citizens of Oregon, including local government to participate with the Board of Forestry and the State Forester as they develop policy and reach decisions. By completing a "Mailing List Request" (see Appendix G) local government will be placed on selected mailing lists for forestry news, publications, and meeting notices.

Of particular interest to local government are the Board of Forestry meetings. By law, the Board meets at least quarterly on the first Wednesday following the first Monday in January, March, June and September. Other special meetings, including local meetings across the state may be scheduled. At Board meetings, local government can speak on specific agenda items or on any forestry topic of concern. To be notified of upcoming Board meetings and receive copies of the meeting agenda, the "Mailing List Request" should be appropriately completed and returned to the State Forester.

Pursuant to the January 25, 1990 amendments to Goal 4 and Forest Land Administrative Rules, the Department reviews forest management plans and siting plans. These reviews are a field activity coordinated by the Forest Resources Planning Program. Each field district has designated a local land use planning coordinator that is responsible to ensure that the District completes the review of forest management plans and siting plans in a consistent and timely manner. Procedures for the coordination of this function with local government will be developed jointly with the District Forester (or his delegate) and representatives of the local government.

## **8. Administrative Services:**

Cooperation and assistance in the implementation of local government radio communications systems may be available through this program. The Department maintains a statewide radio communication system including radio repeater sites in many areas of the state. The emergency response needs for the Department often requires sharing frequencies with local government emergency service agencies and organizations. Opportunities may be available to share radio repeater sites and other system elements between local government and the Department. For assistance in the coordination of radio communication systems, the Department's Communications Manager in Salem (ph: 378-2503) should be contacted.

Maps, aerial photography, and graphic services are available from the Department's Administrative Services Program, Graphics Services Section. The Department publishes 1/2 inch = 1 mile scale maps for forest protection districts which includes much of the forested portions of the state. These maps are detailed, multicolored maps showing public ownerships (BLM, USFS, state-owned lands), Forest Protection District boundaries, roads, cities, etc. The maps can be ordered from the Graphic Services Section, 2600 State Street, Salem, OR 97310, or they can be purchased at the District and Unit offices.

Other maps are available, including more detailed maps of state-owned forest land. These maps should be ordered from the Department's Graphic Services Section. Copies of aerial photos owned by the Department can also be purchased. Copies must be ordered from the Graphics Services Section. Some District offices will loan aerial photos to local government upon request. The photo coverage available at a District office is usually limited to private and state-owned forest lands within the District.

The appropriate District office should be contacted for this assistance.

Upon request and workload considerations, graphic services, including graphic arts, cartographic services, engineering and architectural drawing, and photography are available from the Graphic Services Section. The cost of these services include labor and material costs plus overhead and administrative costs.

Appendix F includes a list of maps, aerial photos and graphic services available from the Department.

The Department may also consider co-locating administrative sites with other agencies or leasing administrative sites to other agencies, including Rural Fire Protection Districts. For example, the Department leases a portion of a fire station to the McKenzie Rural Fire Protection District in Lane County. Opportunities to co-locate or lease administrative sites should be pursued with the local District office.

#### **D. PARTICIPATION OF THE DEPARTMENT IN THE PERIODIC REVIEW PROCESS**

Periodic review is the process through which local government is required to examine their comprehensive plans and update the plans as necessary. Local government is required to review their plans against four criteria: (1) Has there been a substantial change of circumstances?; (2) Have any new goals or state planning policies been adopted?; (3) Have any state agencies adopted a new program that affects land use?; and (4) Are there any tasks that remain uncompleted from acknowledgement?

Periodic review provides the Department a periodic opportunity to advise local government on issues that may result in improved protection to forest resources. Additionally, there are some circumstances that require the Department's involvement in periodic review.

The Department will become involved in periodic review with local government if any of the following factors apply:

1. Inventory information for threatened and endangered fish and wildlife species; sensitive bird nesting, roosting and watering sites; biological sites that are ecologically and scientifically significant and significant wetlands developed pursuant to ORS 527.710 have been updated since the last periodic review within a local jurisdiction undergoing periodic review;
2. Goal 4 or the Goal 4 administrative rules have been significantly amended;
3. The Department has adopted a new program that affects land use;
4. New state planning policies have been adopted that affect the operation of Department programs (for example, the adoption of HB 3396); or
5. The Department has adopted new rules that may require the local government to amend their plan or ordinances (for example, if the unsprayed buffer around dwellings established in the Forest Practices Act were changed from the current 50 feet, setback standards in local ordinances to minimize the impacts of dwellings on forest operations may need to be changed); or
6. The Department believes that currently acknowledged plans and ordinances undergoing periodic review do not adequately protect forest resources and are resulting in significant negative impacts to the forest resources.

The Department may become involved in periodic review with local government if the following factors apply:

1. The Department believes that currently acknowledged plans and ordinances undergoing periodic review inadequately protect forest resources; or
2. The Department is requested to become involved by DLCD or by the local government undergoing periodic review.

If any of the mandatory factors apply, the Department will participate with DLCD in the development of the 180-day periodic review notices to inform the local government of the relevant issues which it must consider during its review.

Upon receipt of the periodic review notice (requiring mandatory involvement) for a local government, the Department will in a timely manner notify the local government of the relevant issues and provide the local government a copy of the pertinent information documenting the new information and recommendations for amending the plan, zones or ordinances. Information will be provided in a published form.

## **E. COOPERATION AND TECHNICAL ASSISTANCE TO COASTAL CITIES AND COUNTIES**

Two principal elements comprise the Department of Forestry's program of cooperation and technical assistance to coastal cities and counties. They are:

1. The Department's direct involvement in the planning activities of coastal jurisdictions.
2. Department participation in the Oregon Coastal Zone Management Program.

### **Involvement in Coastal City and County Planning**

The Department shall provide, upon request, technical assistance and planning information to coastal jurisdictions in the same manner as described in Section V. B and C above. Requests for assistance from coastal jurisdictions should be made through the Director of the Forest Resource Planning Program (see section IV(D)).

The Department will work with DLCD and other affected state and federal agencies to minimize conflicts or duplication in providing assistance to coastal cities and counties.

### **Department Participation in Coastal Management Program**

The Oregon Coastal Management Program (OCMP) is part of the statewide program for coordinated land use planning. The OCMP is a partnership between local governments and state and federal agencies to resolve general and often competing interests and issues through acknowledged comprehensive plans and land use regulations for all land in Oregon's coastal zone.

The OCMP is based on Oregon's Land Use Planning Act (ORS 197) and its three principal elements: the Statewide Planning Goals, acknowledged comprehensive plans, and the specific authorities and responsibilities of state agencies contained in the Oregon Revised Statutes.

### **Department Authorities Listed in the OCMP**

Formerly, the OCMP program document listed under the Department of Forestry authorities pertaining to policies and procedures for regulating forest practices and managing state forests and other state-owned forest lands.

However, the OCMP was recently amended by DLCD to reflect the 1987 action of the Oregon Legislature to amend the land use planning statutes (ORS 197) and the state Forest Practices Act (ORS 527) to consolidate all management of forest operations with the Board of Forestry. This consolidation included the protection of significant natural resources on forest lands that may be affected by forest operations. The legislative amendments also specifically exempted the Board and Department of Forestry's administration of the Forest Practices Act from compliance with the statewide planning goals and from compatibility with acknowledged comprehensive plans and land use regulations. Under the amendments to the Forest Practices Act, the Legislature added natural resource protection requirements which are similar to those listed in several of the statewide planning goals.

Under ORS 527.710, the Board of Forestry is required to specifically inventory the following natural resources on forest lands:

- Threatened and endangered fish and wildlife species identified by the state Fish and Wildlife Commission or listed by the federal government;
- Sensitive bird nesting, roosting, and watering sites;
- Biological sites that are ecologically and scientifically significant; and
- Significant wetlands.

The Board of Forestry must determine whether forest practices would conflict with any of the inventoried resource sites. If conflicts are determined, then the Board must determine appropriate levels of protection for the resource site. In adopting protection measures, the Board may incorporate resource protection requirements from other state agencies with relevant protection programs into the Forest Practices Program. If the Board decides to adopt another agency's protection program as part of the Forest Practices Program, then the other state agency must give its approval.

Although the amendments prevent local governments from regulating forest operations outside urban growth boundaries, counties may prohibit forest practices on lands to which it can justify an exception to Goals 3 or 4 (i.e., Agricultural and Forest Lands Goals respectively).

#### Federal Consistency with State Coastal Zone Management

Working in close coordination with DLCD and other affected state and federal agencies, the Department of Forestry, when requested, will advise DLCD on the consistency of proposed federal actions and activities related to the Department which may affect Oregon's coastal zone. In carrying out its responsibilities under the federal consistency process, the Department will adhere to the extent it is legally permitted to the procedures and requirements contained in LCDC's federal consistency rule (OAR Chapter 660, Division 35).

#### OCMP Strategic Plan

The Department of Forestry will participate with DLCD and other OCMP agencies, as resources and staff allow, in the development and updating of a five-year strategic plan for Oregon's coastal zone.

**F. TECHNICAL ASSISTANCE PURSUANT TO ORS 197.712(2)(F) AND 197.717(1) AND (2)-LOCAL PUBLIC FACILITY PLANNING, PERMIT ISSUANCE AND ECONOMIC DEVELOPMENT**

These requirements do not apply to the Department or its programs.