

# GOAL ONE COALITION



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Goal One is Citizen Involvement

## MEMORANDUM

TO: Commissioner Bill Fleenor  
FROM: Jim Just  
DATE: January 27, 2010  
RE: Bringing Marginal Lands criteria into the RCP

Dear Commissioner Fleenor,

Below is a brief discussion of amendments required to adopt marginal lands criteria as part of the RCP.

Addressing and resolving these issues will require amending the Lane County Rural Comprehensive Plan amendments using the PAPA process.

### **I. Marginal Lands criteria**

Marginal lands criteria should be adopted as a new Goal 2 Land Use Planning Policy 28.

**28. Marginal Lands.** Lane County shall designate and zone as Marginal Lands property meeting the requirements of ORS 197.247 (Or Laws 1983, Chapter 826). Uses and land divisions allowed on Marginal Lands shall be those allowed by ORS 197.247. In establishing compliance with ORS 197.247, the following standards must be met:

- a. No evidence of human activity on the land is required for forest land to be “managed” for purposes of ORS 197.247(1)(a). The conscious decision not to convert the land to another use is enough evidence of management to meet the statutory intent, provided there is a significant amount of merchantable or potentially merchantable trees of the property. Likewise, evidence of timber harvest since 1978 would suffice to show management even if there were no trees currently on the property. For farm land, no evidence of farm use during the 5-year statutory window would indicate that land was not managed for farm use.
- b. All lands owned or managed by an individual or other entity as part of a farm or forest operation during the period 1978 through 1982 shall be considered in addressing the “income” tests established by ORS 197.247(1)(a).

- c. Average prices over the 1978-82 period shall be used to determine potential forest operation income for purposes of ORS 197.247(1)(a).
- d. ORS 197.247(1)(a) requires a determination that the proposed marginal land was not managed as part of a forest operation capable of producing an average, over the growth cycle, of \$10,000 or more in gross income. ORS 197.247(5) authorizes a county to use objective criteria to calculate income. Published CMAI tables shall be used to determine bf/yr productivity of the forest operation over the growth cycle identified in the CMAI table in accord with the Board's direction on determining forest productivity, and income capability shall then be determined by multiplying the total potential productivity in board feet by the average prices over the period 1978 through 1982.
- e. ORS 197.247(1)(b)(C) establishes a two-prong productivity test. First, the proposed marginal land must be composed predominantly (>50%) of soils in capability classes V through VII in the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. Second, the proposed marginal land must not be capable of producing 85 cf/ac/yr of merchantable timber. In addressing this test, the potential forest site productivity of the subject property shall be determined, based on a mapping of average annual wood production capability by cubic feet per acre per year (cf/ac/yr). If published site information is not available, then an equivalent method of determining forest land suitability must be used as set forth in OAR 660-006-0005(2).
- f. ORS 197.247(1)(b) (A) & (B) establish "area" tests. In addressing ORS 197.247(1)(b)(A), the total area of all of the lots or parcels falling all or partially within ¼ mile must be considered together with all of the proposed marginal lands. If the total area of all lots or parcels smaller than 20 acres equals 50% or more of that total area, the parcelization test is met. In addressing Subsection (B), the total area considered must be a minimum of 240 acres; parcels 20 acres or less in size must comprise a minimum of 60% of the total area considered.

## II. Other necessary conforming amendments

### A. RCP Goal 3: Agricultural Land Policy 14

- 14. Land may be designated as marginal land if it complies with the following criteria:
  - a. The requirements of ORS 197.247;
  - b. Lane County General Plan Policies, Goal 2: Land Use Planning, Policy 28;**  
and
  - c. Lane County General Plan Policies, Goal 5: Flora and Fauna, policies numbered 11 and 12.

### B. RCP Goal 4 Forest Lands Policy 3

- 3. ~~Forest lands that satisfy the requirements of ORS 197.247 may designate as Marginal Lands and such designations shall also made in accordance with other~~

~~Plan policies. Uses and land divisions allowed on Marginal Lands shall be those allowed by ORS 197.247.~~

3. **Land may be designated as marginal land if it complies with the following criteria:**

**a. The requirements of ORS 197.247;**

**b. Lane County General Plan Policies, Goal 2: Land Use Planning, Policy 28;**  
**and**

**c. Lane County General Plan Policies, Goal 5: Flora and Fauna, policies numbered 11 and 12.**