

STAFF REPORT

Agenda Item No.:	E
Work Plan Title & #:	Private Forests Work Plan #6
IBI # and Title:	IBI # 3 Support for the Forest Practices Act, Land Use Planning and the Oregon Plan
Title:	Forest Practices Act Rule Amendment (OAR 629-021-0700(1)) – Authority to Implement 527.736(4) Delegated to the State Forester – <u>Hybrid Poplars</u>
Date of Presentation:	April 24, 2009
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SUMMARY

This agenda item provides the outcome of a public hearing and comment period for the proposed rule amendment to the existing authority of the State Forester to approve stewardship agreements. The amendment adds the delegation of the Board's authority under 527.736(4) to the existing authority. The Department recommends that the Board approve the proposed rule amendment to OAR 629-021-0700(1). The purpose of this rule amendment is to exercise the Board's new authority granted by House Bill 3628 to modify or waive limitations and requirements of statutes applicable to hybrid poplar plantations managed on a rotation age beyond 12 years but less than 20 years.

CONTEXT

Intermediate Board Issue 3 of the Private Forests Work Plan 6 supports an effective and adaptive Oregon Forest Practices Act (FPA), and help achieves statewide native plant and animal conservation (*Forestry Program for Oregon* key actions A.1, D.1, E.2, and E.3).

The Department developed this rule amendment to implement the Board's November 7, 2008 decision to approve modifications or waivers to one or more of requirements of ORS 527.676, 527.740, 527.750 and 527.755 as a term of a stewardship agreement, as allowed in ORS 527.736(4). The Board delegated approval of modifications or waivers under stewardship agreements to the State Forester. The Board directed the Department to develop draft rule language to implement the decision, and bring to the Board for review.

BACKGROUND AND ANALYSIS

The passage of HB 3628 in 2007 gave the Board authority to modify or waive the limitations and requirements of ORS 527.676 (leave trees and downed logs), 527.740 and 527.750 (clearcut size limitations), and 527.755 (Scenic Highways) for certain hardwood plantations

or for landowners entering into a stewardship agreement. This authority was intended to accommodate operational concerns of poplar plantation operators coming under the jurisdiction of the FPA (rotation ages >12 years) as well as provide flexibility for innovative forest management approaches for any forest landowner entering into a stewardship agreement.

At the November 7, 2008 meeting, the Board decided to exercise its new statutory authority only for forest landowners entering into stewardship agreements. This decision balanced the integrity of the Forest Practices Act with flexibility tailored to site-specific conditions, as opposed to creating new rules or outright waivers for poplar plantations. The Board directed the Department to draft rule language to implement this decision.

To implement the decision, the draft rule language (Attachment 1) inserts a reference to the new authority, 527.736(4), into the existing decision authority of the State Forester for approval of Stewardship Agreements (OAR 629-021-0700 (1)).

No public comment on the proposal to delegate this authority was provided at the November 2008 Board meeting, when draft rule language was circulated prior to submission to the Secretary of State (November 2008), during the formal comment period (January 1 – March 5, 2009), nor during the hearing (February 28, 2009). Representatives of the large and small forest landowner and poplar plantation community were informed of the proposed rule language both before and after the formal comment period.

RECOMMENDATION

The Department recommends that the Board approve the proposed rule amendment to OAR 629-021-0700(1).

NEXT STEPS

The Department will file the proposed rule amendment for OAR 629-021-0700(1) with the Secretary of State and Legislative Counsel.

ATTACHMENTS

- (1) Proposed Rule Language for OAR 629-021-0700(1)
- (2) Text of HB 3628