

Agenda Item No: D - *Forest Regulation - Issue #6*
Objective 3 – Promote Use of Voluntary Methods
FPA Large Wood Placement Authority

Date Presented to Board: January 3, 2006

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SUMMARY

This agenda item completes formal Oregon administrative rule making to provide explicit Forest Practices Act authority over certain types of large wood placement activities when conducted in conjunction with a forest operation. By taking this action, the Board of Forestry will streamline the process for forest landowners who want to make this important contribution to improve fish habitat through the Oregon Plan for Salmon and Watersheds. The Board is asked to formally adopt the final draft rules as shown in Attachment 1.

CONTEXT

On June 7, 2006, the Board adopted temporary rules codifying certain types of large wood placements as actions that are governed by the Forest Practices Act when conducted as part of a forest operation. The proposed permanent rules will replace the temporary rule through three additions to the Oregon Administrative Rules. These are:

1. A definition of large wood key piece.
2. A new rule that describes how large wood key pieces can be placed in type F streams subject to the Forest Practices Act and forest practices rules.
3. Clarification that large wood key pieces placed under 629-640-0105 must also meet the requirements of 629-640-0110 in order to qualify for basal area credit.

BACKGROUND

The Oregon Plan for Salmon and Watersheds recognizes placement of large wood in fish use streams as an important method of improving fish habitat, especially where in-stream large wood levels are deficient. Landowners and state agencies have shown a willingness to conduct wood placement projects on a voluntary basis; however, removal and fill permit requirements under the authority of the U. S. Army Corps of Engineers have discouraged landowners from this activity. Removal of this federal permitting requirement and placement of regulatory authority under the Forest Practices Act will reduce the disincentive caused by the permitting process. Under the

authority of the Oregon Department of Forestry, landowners and operators can include wood placement through the existing notification and written plan process and accomplish large wood placement activities with forest operations. At this time, equipment needed for wood placement is on site and placement activities can be done for minimal cost. In the Department's estimation, this will result in an increase in projects.

For wood placement projects taking place in conjunction with a forest operation (e.g., wood placement during a logging operation), the U. S. Environmental Protection Agency (EPA) has agreed that placement is a 'normal silvicultural activity.' This exempts these certain types of large wood placements from removal and fill requirements in Section 404 of the federal Clean Water Act. The Oregon Department of State Lands (DSL) has indicated a similar agreement. These determinations are based on the assumption that the placement projects are subject to the FPA when conducted in conjunction with a forest operation. The permanent rule is needed to define 'large wood key piece' and to clarify FPA authority.

The draft rules were reviewed with the Forest Practices Regional Committees in October 2006. A public hearing was held on November 15, 2006. Comments were also received during the public comment period. These are described in the Hearings Officer's Report (Attachment 3). One minor change was incorporated in the proposed rule language in response to public comment as described in the Hearings Officer's report.

RECOMMENDATIONS

- Amend OAR 629-600-0100
- Adopt OAR 629-640-0105
- Amend OAR 629-640-0110

NEXT STEPS

This completes Board action on this agenda item. The Department will proceed with implementation and communication with landowners encouraging renewed efforts to place large wood during their operations.

GUIDE TO ATTACHED DOCUMENTS

1. Draft Permanent Rule Language OAR 629-600-0100, 629-640-0105, and 629-640-0110
2. Strikethrough and Underline Copy OAR 629-600-0100, 629-640-0105, and 629-640-0110
3. Hearings Officer's Report