

Agenda Item No: E - Forest Vitality – Issue #3
Objective 5 – Carbon Offset Markets

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SUMMARY

The agenda item addresses the Forest Resource Trust (FRT) component of Objective 5.

Specifically, this agenda item completes formal Oregon administrative rulemaking adopting FRT Advisory Committee recommendations for revising and improving the FRT’s Stand Establishment Program. The Board of Forestry is asked to formally adopt the final draft rules as shown in Attachment 1, Forest Resource Trust Final Draft Rules (Showing Mark-Up With Respect To The Original Rules) (OAR Chapter 629, Division 22), and Attachment 2, Proposed Revisions to Administrative Rules, Forest Resource Trust (OAR Chapter 629, Division 22).

CONTEXT

The Forest Resource Trust (FRT) was established by statute in 1993, and the Stand Establishment Program was first implemented in 1995. The FRT has not achieved the level of participation originally hoped for. Because the current available funding in the FRT is predominantly from a carbon offset payment tied to a power generating plant operating permit, the Energy Facility Siting Council and the Oregon Department of Energy asked the Department to present a plan for revitalizing the FRT or, alternatively, to consider voluntarily returning the offset payment for reassignment to another carbon offset project.

The FRT Advisory Committee was reconvened on June 28, 2006. The Board at its September 6, 2006 meeting validated through official appointment the membership of the advisory committee. The FRT Advisory Committee met on August 8, 2006 to review the FRT administrative rules, including the temporary rule that lowered the interest rate which the Board adopted in January 2006. The Advisory Committee recommended revising the FRT administrative rules under existing statutory authority to simplify the FRT’s stand establishment program and make it more attractive to family forestland owners.

BACKGROUND AND ANALYSIS

The current FRT Stand Establishment Program is a complex business partnership between the forestland owner and government. There is currently around one million dollars in the FRT fund available for stand establishment projects but few interested family forest landowners, even

though many landowners are eligible to participate in the program. To simplify the current program, the advisory committee recommended the following rule changes to OAR Chapter 629, Division 22 (see Attachments 1 and 2 for specific rule change language).

Proposed Rule Revisions:

- Allows an eligibility exception for low site forestlands in Central and Eastern Oregon up to 15,000 acres.
- Makes the timber lien optional. The extra administrative workload, the unattractive nature of the lien to landowners, and the very low risk of contract failure does not justify using the lien for all FRT projects.
- Maintains the 200-year contract length but add 'as specified in the contract'. The reference to the contract allows the term to be specific and flexible for the various contract lengths that may arise if future statutory changes are made to the FRT.
- Allows the Buyout Option at anytime during the life of the contract. Creates more opportunities for the landowner within the context of a simple loan program format.
- Eliminates the Growout Option and instead requires repayment of utilized FRT funds based on 50 percent of the net receipts when harvesting forest products including payment from intermediate harvests yielding net receipts.
- Requires full repayment of unpaid FRT funds, if at the time of harvest, the harvest creates a Harvest Type 1 or 3 condition (as defined in Oregon Revised Statute (ORS) 527.620) requiring reforestation under the Oregon Forest Practices Act.
- Requires repayment of FRT funds to be first applied to the actual cost paid, then to the accumulative interest, until all FRT funds have been repaid.
- Set interest rate at 4 percent, simple.
- Adds a collection process for breaches of contract, as described in other existing statutes.

A public hearing on the proposed amended rule package was held on October 23, 2006. No one attended the hearing and no written testimony on the proposed amended rule package was received by the Department (see Attachment 3 for the Hearing Officer's Report).

RECOMMENDATION

- Adopt amended rules to OAR 629, Division 22, as indicated in Attachments 1 and 2.

ATTACHMENTS

- 1) Forest Resource Trust Final Draft Rules (Showing Mark-Up) (OAR Chapter 629, Division 22)
- 2) Proposed Revisions to Administrative Rules, Forest Resource Trust (OAR Chapter 629, Division 22)
- 3) Hearings Officer Report