

Agenda Item No.:	6
Work Plan Title & #:	Administrative Work Plan 0
IBI # & Title:	IBI 1 Administrative Processes
Presentation Title:	Adoption of Permanent Rule Amendment to OAR 629-041-0100
Date of Presentation:	July 31, 2009
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SUMMARY

The purpose of this agenda item is to seek Board approval for the adoption of a permanent rule amendment to OAR 629-041-0100. If adopted, this permanent rule amendment will succeed the temporary rule adopted on March 23, 2009 by becoming effective on September 21, 2009. The proposed permanent rule amendment, like the adopted temporary rule, establishes procedural rules for the competitive solicitation of agreements for the prevention and suppression of fire on forestland and other lands by adopting by reference the procedures specified in the Attorney General's Model Public Contract Rules, OAR chapter 137, divisions 046 and 047 (2008).

CONTEXT

The Board adopted a temporary rule amending OAR 629-041-0100 on March 23, 2009, establishing procedural rules for the competitive solicitation of certain firefighting and fire prevention activities.

This proposed amendment will permanently amend OAR 629-041-0100 and allow the Department to use its independent statutory authority to solicit contracts and agreements using the procedures specified in Attorney General's Model Public Contract Rules. The temporary rule will expire on September 20, 2009 and if adopted, the proposed permanent amendment will take effect on September 21, 2009.

BACKGROUND AND ANALYSIS

The Staff Report for the Board's meeting on March 23, 2009, contains the background information on the need for adoption of first the temporary rule and now the permanent rule.

The result of the hearing process, including a summary of the hearing prepared by the hearing officer, is included as Attachment 1. The attachment also contains the hearing officer's recommendations to the Board as to changes that can be made to

improve the final rule. The recommendations include: clarifying when the permanent rule takes effect; using the term “State Forester” in the rule, in keeping with the relevant statutory authority; and providing a statutory reference to the Oregon Administrative Procedures Act.

At the time the Board approved entering into formal rulemaking procedures, the proposed rule was under review by the Department’s legal counsel. As a result of that review, additional language to clarify the process for Judicial Review has been included, and the Department has inserted the word “responsible” so the rule language corresponds with the statutory language.

Attachment 2 is the proposed permanent rule, which includes additional language recommended by the Department’s counsel and hearing officer. None of the recommended changes contain substantive differences from what was first proposed to the Board and filed with the Secretary of State’s office.

RECOMMENDATION

The Department recommends the Board of Forestry amend OAR 629-041-0100 by permanent rule, retroactive to February 1, 2009 and to take effect on September 21, 2009.

NEXT STEPS

Upon adoption of the permanent rule amendment, the Department’s Procurement Unit will use the procedures specified in divisions 046 and 047 of the Model Rules during applicable procurement processes.

ATTACHMENTS

- (1) Hearings Officer Report
- (2) Proposed Permanent Rule Amendment