

Agenda Item No.:	Consent Agenda Item D
Work Plan Title & #:	Private Forests Work Plan 6
IBI # & Title:	IBI 3 – Landslides and Public Safety
Presentation Title:	Update on Landslide and Public Safety Rule Revision Process
Date of Presentation:	June 3, 2009
Contact Information:	Peter Daugherty, Deputy Chief, Private Forests Division 503-945-7482; pdaugherty@odf.state.or.us

SUMMARY

This agenda item provides an update regarding on-going discussions with stakeholders, landowners and Regional Forest Practices Committees regarding the scope and process for revising Division 623, Shallow, Rapidly Moving Landslides and Public Safety Rules. The Department anticipates requesting direction to proceed to formal rule making at the November 2009 Board meeting.

CONTEXT, BACKGROUND, & ANALYSIS

At the November 2008 Board meeting, the Department reported on permanent rule development to address the Intermediate Downslope Public Safety Risk category; requested a rule type determination pursuant to ORS 527.714; and requested direction to proceed to formal rule making. Written testimony requested a thorough review of the proposed rule to ensure the objectives of public safety were met in the context of shared responsibility.

The Board determined that the draft permanent rule to implement the provisions of ORS 527.710(10) presented by the Department would not result in new or increased standards for forest practices. Therefore, scientific-findings and economic-analysis under ORS 527.714(5) and (7) were not required. The Board directed the Department to provide appropriate information on alternatives evaluated and economic impact, prior to requesting formal rulemaking authority. The Board also directed the Department to meet with stakeholders, landowners and Regional Forest Practices Committees to ensure that the Department considers sufficient alternatives in developing the proposed rules.

At the March 2009 meeting, the Department briefly updated the Board on the outcome of discussions with regional committees and stakeholders during the discussion on the Private Forests work plan. The Department informed the Board that discussions with stakeholders, landowners and Regional Forest Practices Committees had lead to a broader scope of the rule revision process. The discussions indicated that modifications of the intermediate risk rules required addressing other aspects of the Division 623 rules, and identified the following issues:

- terminology and definitions need updating and / or clarification;
- technical criteria for designating High Landslide Hazard Locations and Further Review Areas;

- difficulties with shared responsibility associated with Further Review Area maps, as mandated in statute, to guide county residential development and forest-practices activities; these maps do not yet exist;
- the definition of certain risk exposure categories and landslide impact ratings;
- potential differences in acceptable risk levels between homes and roads;
- methods for addressing windthrow in stands left to protect High Landslide Hazard Locations; and,
- the intent, use, and administrative aspects of geotechnical reports.

NEXT STEPS

Staff will continue to solicit input from appropriate partners on rule revisions and alternatives for addressing identified concerns. This information will be presented to the Board at the November 2009 meeting. Following Board review of information and direction, the Department will request formal rule-making authority. The Department anticipates conducting public hearings and returning with final rule language to the Board for consideration in early 2010.