

STAFF REPORT

Agenda Item No:	2
Title and # of Issue:	Forest Vitality - Issue 3
Objective # & Title:	Obj. 5 – Promote the development of forestry carbon-offset markets as an incentive for managing forests, utilizing wood products and maintaining the forestland base.
Presentation Title:	<i>Forest Resource Trust -- Proposed OAR Amendments</i>
Date of Presentation:	June 4, 2008
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SUMMARY

The purpose of this agenda item is to present and recommend proposed amendments to Oregon Administrative Rules (OAR) 629-022-0030 through OAR 629-022-0700 relating to the implementation of Forest Resource Trust programs. The proposed rule amendments were developed by the Forest Resource Trust Advisory Committee, which is a standing committee to the Oregon Board of Forestry established under Oregon Revised Statute (ORS) 526.700.

CONTEXT

Objective 5 of the Forest Vitality Work Plan broadly states that markets for carbon offsets should serve as an incentive for managing forests, utilizing wood products and maintaining the forestland base. The Forest Resource Trust was established by statute in 1993 to provide financial and technical assistance to non-industrial private forestland owners for stand establishment and improved management of forestlands for timber, wildlife, water quality, and other environmental purposes. The Forest Resource Trust’s OAR 629-022-0700, adopted in 1995, recognizes that the afforestation of under producing lands (e.g., converting agricultural, range and unmanaged land back to forests through site preparation, tree planting and seedling maintenance) can serve as a type of project that produces forest carbon offsets.

BACKGROUND & ANALYSIS

The Forest Resource Trust “Stand Establishment Program”, initiated in 1995, encourages family forest landowners to establish forests on land that either once supported forests but currently support agricultural and range use, or have been abandoned as forestlands and are currently in brush or some non-forest cover. Non-industrial private forest landowner enrollment in the Stand Establishment Program had not been meeting the expectations of the Oregon Energy Facility Siting Council. In response, the Department convened the Forest Resource Trust Advisory Committee in June 2006 to review the Forest Resource Trust administrative rules and statutes for the purpose recommending both statutory and rule changes to improve overall program effectiveness.

In addition to the Forest Resource Trust Advisory Committee recommendations for improvements to the Stand Establishment Program, (the Board adopted final rule changes for the Program at their January 2007 meeting), the Committee also developed a legislative concept that addressed needed statutory changes to create efficiencies, effectiveness and innovation in the Forest Resource Trust. This legislative concept resulted in the adoption and passage of House Bill 2293-A, signed into law by the Oregon Governor and effective January 1, 2008. This bill requires the adoption of administrative rules by the Board of Forestry to guide implementation of provisions in House Bill 2293-A.

House Bill 2293-A provides for the following:

- Gives the Oregon Board of Forestry the authority to:
 - Create a Cost Share Program for non-industrial private forest landowners under the Forest Resource Trust. Cost share is a proven mechanism for delivering financial and technical assistance;
 - Generalize the Stand Establishment Program to be inclusive of other forest management practices besides stand establishment; and
 - Broaden the scope of the Forest Resource Trust's Loan Program to include other qualified private and local government landowners.
- Directs all Forest Resource Trust programs to:
 - Give priority to lands zoned for forest uses under county comprehensive plans and to other lands with good probability of success for long-term forest management, and
 - Give consideration to conservation plans or strategies adopted by the State Department of Fish and Wildlife when setting priorities for accepted projects, and
 - Assist landowners in securing payments for ecosystem services; where ecosystem services is defined as the environmental benefits arising from the conservation and management of forestland, including, but not limited to, fish and wildlife habitat, clean water and air, pollination, mitigation of environmental hazards, control of pests and diseases, carbon sequestration, avoidance of carbon dioxide emissions and maintenance of soil productivity.

RECOMMENDATION

The Department recommends the Board direct the Department to proceed with formal rulemaking, including scheduling public comment and hearings on the draft rules as shown in Attachments 1 and 2.

The Forest Resource Trust Advisory Committee developed the proposed rule amendments (see Attachments 1 and 2) after review and discussion that occurred over a number of meetings in both 2007 and 2008. The proposed rule amendments include rule changes required by House Bill 2293-A, as well as rule changes not explicitly required:

Required Rules to Implement House Bill 2293--

- Establishes new rules for the Cost-Share Program.
- Generalizes the Stand Establishment Program as the Loan Program by allowing additional practices that lead to the improved management of forestland to be funded.
- Adds or amends definitions to be consistent with House Bill 2293-A.

Rules Recommended for Implementing, although not required by, House Bill 2293--

- Adds qualified private and other local government landowners as eligible for applying for financial assistance under the Forest Resource Trust's Loan Program. Provides a specific definition for qualified private and other local government landowners.
- Sets as a high priority for funding projects consistent with conservation plans and strategies of the Oregon Department of Fish and Wildlife.

Other Substantive Changes per Oregon Department of Justice, Department Staff or the Forest Resource Trust Advisory Committee

- Clarifies the intent of the 2007 rule amendment's that a final harvest of a portion of the project area only triggers full payment of monies due under the Loan Program as pro-rated to the area actually harvested. Without this rule change, any final harvest triggers full payment of all monies owed, regardless of how much of the project area is subject to the final harvest.
- Establishes specific provisions for the State Forester to grant exceptions to the administrative rules.
- Changes the priority for funding projects from landowners with forest management plans or from landowners willing to invest their own money in loan program projects from medium to high.
- Changes the priority for funding projects with high site productivity from high to medium.
- Repeals the restriction that the Forest Resource Trust programs do not fund environmental restoration practices; such practices are now eligible for funding consistent with them furthering the purposes of the Forest Resource Trust.
- Adds that lands having received or applied for compensation or waivers for restrictions placed because of forest zoning or the Oregon Forest Practices Act are not eligible for Forest Resource Trust funds.

House Keeping Changes

- Add definitions used in current Stand Establishment Program contracts to the "Definitions" section of the rule. Generalizes these definitions to cover more than just stand establishment. Edits rules to be consistent with the added definitions.
- Deletes notice of payment provision in OAR 629-022-0300(6) (per advice of Oregon Department of Justice).
- The requirement that the project plan also include "recommended" practices (i.e., practices recommended, but not payable by the Forest Resource Trust) is dropped. There is no longer a "required" practice. (This term has been replaced by "approved" practices).
- Clarifies the necessary content of project plans and eliminates previous rules listing the specific practices required in stand establishment project plans.

- Removes "Harvest Type II" as a harvest that triggers final payment of balance due under the loan program.
- Other organizational changes in the administrative rules; streamlining and simplification of the rules.

NEXT STEPS

At the Direction of the Board, the Department will proceed with the formal rulemaking process with the intent of returning final rule language to the Board for consideration at the November 2008 Board Meeting.

ATTACHMENTS

- 1) Forest Resource Trust Final Draft Rule Amendments (Showing Mark-Up) (OAR Chapter 629, Division 22)
- 2) Forest Resource Trust Final Draft Rule Amendments (Clean-Copy) (OAR Chapter 629, Division 22)