

Agenda Item No.: 5  
Work Plan Title & #: Forest Regulation – Issue 6  
Objective # & Title: Obj. 2 - Minimize the Adverse Financial Effects of Regulation,  
Hybrid Poplar – Alternatives for Ensuring Alignment with Policy  
Goals  
Date of Presentation: November 7, 2008  
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**SUMMARY**

This agenda item (1) describes the issues raised by hybrid poplar growers with stand ages approaching 12 years and subsequent jurisdiction under the Forest Practices Act (FPA); (2) describes the Board’s new authority to modify or waive the limitations and requirements of certain statutes for intensively managed hardwood plantations; (3) describes the alternatives available for Board consideration to resolve issues with FPA administration on hybrid poplar operations; and (4) makes recommendations based on the goals of the Forest Practices Act and the Forestry Program for Oregon (FPFO).

**CONTEXT**

Stand ages for some hybrid poplar plantations will soon extend beyond 12 years and they will become operations as defined in the FPA. The Board has new authority granted by House Bill 3628 to modify or waive the limitations and requirements of statutes concerning leave trees and downed logs, harvest size limitations, and Scenic Highways for hardwood plantations managed on a rotation age beyond 12 years but less than 20 years. These statutes may be modified, waived permanently, or waived upon entering into a stewardship agreement. The Board may also opt to develop new rules specific to hybrid poplar plantations under its existing authority.

The Legislature provided no direction to the Board regarding how to exercise the new authority granted by House Bill 3628. Forest policy is codified in statutes and rules and further described in the 2003 Forestry Program for Oregon (FPFO). Statutes and rules that effectively and efficiently achieve desired FPA policy outcomes when applied to native forestlands may not have the same result when applied to hybrid poplar plantations. In absence of direction from the Legislature, the Department utilized the policy goals of the FPA and FPFO to analyze the conflicts between hybrid poplar operations and the FPA, to frame a range of alternatives, and recommend an alternative to the Board.

## **BACKGROUND AND ANALYSIS**

In 1991, poplar stands grown on rotation cycles of less than 10 years were exempted from FPA requirements. This exception was broadened in 1996 to rotation cycles of 12 years. The 2007 legislature deliberated on a proposal to extend the rotation cycle exempted from FPA requirements from 12 to 20, but ultimately did not act on the proposal. Negotiations between commercial hybrid poplar growers, Oregon Forest Industries Council (OFIC), Oregon Small Woodlands Association (OSWA), and the Oregon Farm Bureau (OFB) resulted in House Bill 3628, which passed in the February 2008 special session. Instead of increasing the rotation age, HB 3628 allows the Board to modify or waive the limitations and requirements of ORS 527.676 (leave trees and downed logs), 527.740 and 527.750 (clearcut size limitations), and 527.755 (Scenic Highways) for certain hardwood plantations. Qualifying stands include those with a harvest rotation cycle longer than 12 and less than 20 years and that utilize intensive agricultural practices.

Hybrid poplar plantations occur on former agricultural lands in a diverse range of ecosystems including sage uplands, drained and/or diked wetland and tidally influenced areas, and lowlands of the Willamette Valley. These hardwood plantations often occur on old agricultural ground, and management units (blocks) generally adopt the size and dimensions of the past agricultural crops. In many cases, these blocks are sustained by a variety of irrigation systems, including but not limited to individual tree watering systems and sub-irrigation in diked areas. Accordingly, planned harvest units (clearcut sizes) can range from a few acres on small, private ownerships to hundreds of acres on industrial plantations. The high stocking densities of poplar stands and their shallow rooting habits create concerns about the windfirmness of narrow strips or scattered trees left for wildlife or scenic resources. Continuing to irrigate leave trees may be problematic with growers whose irrigation lines are pulled at harvest.

Given that the Legislature provided no specific direction to the Board, the Department used the policy goals in the FPA and strategies from the FPFO to guide the development and analysis of alternatives. The Department focused on key FPA and FPFO policy goals. The policy goals most germane to the discussion include those stated in ORS 527.630 and in the FPFO Strategies B and E. These policy statements focus on the themes of efficiency and effectiveness of forest regulations and policies. The Department developed an issue paper to analyze hybrid poplar operations and FPA regulations (Attachment 1). This paper focuses on the themes of efficiency and effectiveness in order to assess a range of alternatives for Board consideration. Attachment 2 provides verbatim text of applicable FPA statutes and rules cited in the analysis.

## **ALTERNATIVES CONSIDERED**

Alternative A: The Board takes no action responding to new authority and hybrid poplar plantations with rotation cycles greater than 12 years would fall under current FPA statutes and regulations.

Alternative B: The Board waives the requirements for ORS 527.676, 527.740, 527.750 and 527.755 for intensively managed hardwood timber manage on a rotation cycle between 12 and 20 years, as allowed in ORS 527.736(5).

Alternative C: The Board chooses the option to waive one or more of requirements for ORS 527.676, 527.740, 527.750 and 527.755 as a term of a stewardship agreement, as allowed in ORS 527.736(4). The Board delegates approval of waiver for stewardship agreements to the State Forester.

Alternative D: The Board directs the Department to continue work on this topic and provide specific alternatives and/or rule changes for modification of specific requirements of the statutes ORS 527.676, 527.740, 527.750 and 527.755 to accommodate hybrid poplar plantations.

## **RECOMMENDATION**

The Department recommends that the Board direct the Department to implement the option to waive one or more of requirements for ORS 527.676, 527.740, 527.750 and 527.755 as a term of a stewardship agreement as describe in Alternative C. Alternative C provides the preferred alternative to the issues raised regarding the FPA and hybrid poplar plantation. This alternative balances integrity of the FPA with flexibility tailored to site-specific conditions. The Department recommends moving forward with Alternative C, with the Board delegating review and approval of waivers to the State Foresters.

## **NEXT STEPS**

The Department will develop draft rule language to implement Alternative C, and bring to the Board for review.

## **ATTACHMENTS**

- (1) Issue Paper: Minimize the Adverse Financial Effects of Regulation, Hybrid Poplar – Alternatives for Ensuring Alignment with Policy Goals.
- (2) Text of applicable FPA statutes and rules

