

Work Plan: **Private Forests**

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## BACKGROUND

The Oregon Department of Forestry provides resource protection and landowner assistance on Oregon’s 10.7 million acres (35 percent of Oregon’s forestland) under private forest ownership. Oregon’s privately owned forests are diverse in size and character, including large industrial ownerships, family woodlands of many sizes, and treescapes in cities, suburbs and rural residential areas. To support such diverse ownerships, the Private Forests program provides landowner assistance in the areas of forest and stream health protection and enhancement, urban and community forestry, enforcement of forest management laws, research and monitoring, and incentive programs. These forests provide values for all Oregonians, including watershed protection, ecosystem services, economic activity, fish and wildlife habitat, and recreation.

### *Current Challenges to Keeping Forestlands in Forestland*

Since the founding of the Department of Forestry in 1911, Oregon has seen a continuous evolution of the primary challenges to maintaining healthy, working forests on both private and public forestland. At the turn of the last century, wildfire was the greatest threat to forest sustainability, and the Department's primary mission was—and is today—to provide fire protection against this threat. Soon thereafter, deforestation became the next challenge to forest sustainability and the Department responded with robust reforestation laws and practices. Later in the 20<sup>th</sup> century, and precipitating the passage of Oregon's Forest Practices Act (FPA), was an increase in the public's environmental awareness and concern regarding natural resource protection. The FPA and associated best management practices was the response, with an emphasis on a strong regulatory approach to ensuring desired public benefits from private forestlands. Today we are facing the next evolution of challenges to healthy, working forests and forest sustainability in Oregon—the increasing trend in the conversion and fragmentation of forestlands. This Board work plan, and the Board products that result, will guide the Department's vision and direction in choosing the most effective response to address this new, primary challenge to maintaining healthy, working forests on private lands.

As Oregon grows and faces greater development pressures, increasing numbers of forest tracts are being converted to other uses, or face a heightened risk of such conversion. Nationally, the U.S. Forest Service and the National Association of State Foresters identified development and fragmentation as critical issues facing our forests today. Development and economic pressures on private lands are driving parcellation and/or conversion of forestland to other uses. Industrial lands close to expanding population centers and working family forests are particularly threatened by these trends.

Oregon is following a national trend away from industrial forest ownerships that manage their land to provide a continuous flow of wood to their own mills, towards timberlands that are either being managed as a separate profit center, or sold to Timber Investment and Management Organizations and Real Estate Investment Trusts. These organizational structures may be more responsive to market demand for land for development or other purposes. This trend may increase parcellation, shifting land from industrial to non-industrial owners. While many of the new non-industrial owners may have a broad array of values and objectives for ownership, they often lack the knowledge to implement their objectives and are generally less able to make long-term investments in wood production. Furthermore, many family forestlands are now going through a shift of ownership to the next generation of family members. Studies indicate that the new generation often view the land differently than the previous generation and are much more likely to consider selling rather than managing the land for income.

Oregon's private forests at risk of parcellation and/or conversion have significantly expanded in recent years. As development pressures, population growth, and real estate values increase, more forestland will be at-risk of conversion. It is estimated that over 300,000 acres of Oregon forest—about 5 percent of the state's private forestland—exist inside urban growth boundaries or other development zones. Another 1.8 million acres of private forest exist within one mile of developable areas.

Forest fragmentation provides a new set of challenges, which include:

- Fragmentation and parcellation of forests, combined with the development of roads and residences, can degrade the “green infrastructure” of a forested watershed, including clean water, the diversity of fish and wildlife species, and their habitat. Risks of forest fragmentation in Oregon are principally related to the growth in the number of rural residential structures on private forestlands and increasing building densities on those lands. This type of forest fragmentation can lead to the loss of working forests as well as increases in fire suppression costs. Since 1974 Oregon has seen a 239% increase in the number of structures on forestland.
- Conversion from forest to development dramatically changes the way the surrounding landscape is managed, limiting the range of traditional forestry practices. In many areas, the notion of wood production forestlands—even in the context of sustainable forestry practices—is no longer acceptable to residents.
- When formerly productive timberlands are converted to development, surrounding economies and supporting industries are affected, as forest-related jobs and infrastructure are no longer viable. Forest-related taxes are no longer available to support local government services and education. With no workable return for their investment in forest management, some landowners sell the land for development or other non-forest land use, perpetuating the problem.
- The presence of development in forested areas changes everything about wildfire—creating a higher number of human-caused fires, placing homes at risk, making firefighting more complicated, and increasing firefighting costs.

These challenges are especially evident in central Oregon, where population growth and amenity values are high. Since 1990, about 60 percent of the industrial timberland in Deschutes and Jefferson counties has been sold or exchanged, and an additional 4,000 acres formerly owned by Crown Pacific Corp. have been optioned for development. Forestland has been divided into large lots (240 acres—the minimum ownership for placement of a dwelling in eastern Oregon zones) and sold for home sites. These changes could affect a broad array of forest values and cause further conversion of working forests to development.

These changes affect the ability of the Department to deliver efficient and effective services to private forest landowners. ODF faces a significant task in administering the FPA statutes and rules and provide wildland, urban, and community forest education and assistance. ODF field staff spends an increasingly disproportionate amount of time dealing with natural resource situations and conflicts in forests at risk of conversion and fragmentation. The Department must ensure it continues to deliver a mix of services that meets the diverse needs of landowners, communities, developers, regulators and stakeholders across a broad diversity of forests while promoting and conserving forest land and forest values.

These forestland ownership changes in Oregon are likely to continue to affect the capacity of the Department to provide services, and highlight the need to develop new and innovative landowner and institutional strategies to address these challenges. In order to achieve the Forestry Program for Oregon vision of achieving sustainable forest management across all Oregon’s forestlands, the Private Forests program needs to strategically address these challenges. The outcome of the

Board’s Private Forests Work Plan will ultimately guide how the Private Forests program will organize and respond to achieve the Board’s policy objectives for Oregon’s private forestlands.

Considering a four-part framework of general strategies to meet expectations of public benefits from private lands (Table 1), the Department has historically utilized strategy four—regulating/restricting landowners—to achieve such public benefits. In an environment where private forestlands are at greater risk of development and fragmentation due to increasing non-timber values, continuing to rely on regulations as the primary tool will be less effective in the future, if the result is reduced timberland return on investment.

Table 1: Four-part framework of general strategies to meet expectations of public benefits from private lands (adapted from OFRI 2008<sup>1</sup>)

Improve Timber Resource Economics	Improve Non-Timber Resource Economics
Compensate/Incentivize Landowners	Regulate/Restrict Landowners

Given these challenges, administering current statutory and rule mandates and providing forest landowner services is increasingly difficult given current program resources. The diversification of tools, and increasing the use of strategies one, two, and three (Table 1), could become more important in the future if Oregon is to continue to derive expected public benefits from private forestlands.

*Current Private Forests Program Governing Policies*

At the broadest level, the current policies governing landowner services provided by the Private Forests program are embodied in the following Oregon Revised Statutes:

**527.630 Policy; rules.** (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians.

(2) It is recognized that operations on forestland are already subject to other laws and to regulations of other agencies which deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized that it is

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<sup>1</sup>Oregon Forest Resources Institute. 2008. “The Future of Oregon’s Working Forests”. Oregon Forest Resources Institute. Portland, OR. 13 pp.

essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in planning and carrying out operations on forestlands.

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770 and 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state agencies and local governments which are concerned with the forest environment.

(4) The board may adopt and enforce rules addressing scenic considerations only in accordance with ORS 527.755.

(5) The board shall adopt and enforce forest practice rules to reduce the risk of serious bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10). As used in this subsection, "rapidly moving landslide" has the meaning given in ORS 195.250.

(6) The State of Oregon should provide a stable regulatory environment to encourage investment in private forestlands.

**ORS 526.425:** Recognizing that nonindustrial private forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, it is hereby declared to be the public policy of the State of Oregon to encourage management of nonindustrial private forestlands for tree production. Therefore, under the direction of the State Board of Forestry and to the extent funds are available, the State Forester shall:

(1) Provide for coordinated technical and financial assistance to the nonindustrial private forest landowner;

(2) Provide management planning for nonindustrial private forestlands;

(3) Advise and encourage nonindustrial private forest landowners to carry out young growth management activities, such as converting underproductive forestlands, reforestation, release, precommercial thinning and salvaging insect or disease damaged trees;

(4) Administer federal programs, such as the Agricultural Conservation Program or Forestry Incentives Program, that are designed to help encourage management of nonindustrial private forestlands;

(5) Advise and encourage nonindustrial private forest landowners to form cooperatives or aggregates for the purpose of more efficiently carrying out their young growth management activities;

(6) Periodically advise and recommend changes to the Legislative Assembly on laws conflicting with the intent of this statute; and

(7) In compliance with ORS chapter 183, promulgate rules consistent with law for providing management planning for nonindustrial private forestlands.

**526.505 Policy.** Trees not only are important to the economic and environmental well-being of Oregon, but also represent a significant component of the quality of life for urban residents. As a matter of policy, it is important to promote and protect the human habitat values that accrue from a healthy urban forest. Therefore, it is declared to be the public policy of the State of Oregon to encourage cities to plant and properly care for trees within the cities' urban growth boundaries and develop management plans to protect and promote urban forests.

The *2011 Forestry Program for Oregon*, the Board of Forestry's framework for strategic planning, sets forth the next layer of Board policy and direction for the Department in the context of three broad guiding principles:

1. Widely recognized international criteria and indicators serve as a useful framework for discovering, discussing, and assessing the sustainability of Oregon's forests.
2. Sustainability requires maintaining a diversity of forestland ownerships and management objectives across the landscape and through time.
3. Cooperative, non-regulatory methods are strongly preferred in achieving public benefits on private lands.

The FPFO has seven broad strategies that provide the framework for establishing actions and for designing and implementing agency programs. The FPFO mission, vision, values, and strategies viewed together describe the future the board is striving to achieve. FPFO objectives form a pathway for achieving the Board's desired future.

The Board reviewed the following list of Private Forests Policy objectives at the March 2011 Board meeting:

1. Identify current and future risks of forest fragmentation (i.e., increasing density of structures and parcellation) and the conversion of forests to non-forest use as the primary, overarching challenge to sustainable forestry and keeping working forests working.
2. Explore alternative, more stable funding mechanisms for the public share portion of the department budget directed at keeping forests in forests (i.e., alternatives to state general funds).
  - a. Infestations of insects, diseases and invasive species remain ongoing concerns of private forestland owners. Ensure adequate resources to meet goals of the Forest Health (Insects and Disease) program, including the protection of private forestlands from non-human pests.
  - b. The credibility of Forest Practices Act requires monitoring the effectiveness of best management practices and prescriptive rules. At a minimum, ensure adequate resources to meet statutorily required forest practices research and monitoring. Develop adequate funding streams to ensure a robust monitoring program to support the continuous learning vision of the Board.
3. Utilize non-regulatory methods as much as feasible to achieve public-policy goals on private forestlands, and consider the use of additional regulatory methods as a least-preferred option. The primary concern is achievement of public-policy goals and adequate evaluation of achievement over time is needed, regardless of the method used (regulatory or non-regulatory).
4. Support land-use planning and policies to ensure a stable forestland base and to encourage long-term investments in forestland. Examples include but are not limited to:

- a) promoting a statewide no net loss of forestlands policy, and b) supporting an effective system of transferrable development rights.
5. Place a high priority on long-term strategic investments to support Oregon's forest industry to ensure that Oregon maintains the flexibility necessary to achieve a competitive advantage and a diversity of forest products and new markets like forest biomass for energy production. Support investments that maximize economic viability (e.g., focus on wood quality vs. quantity). Oregon should continue to be a net exporter of wood product, and make a significant contribution towards meeting the nations wood product needs.
  6. Place a high priority on dedicating resources towards the development and support of future non-timber markets that will increase forestland value, including biomass, carbon sequestration, and other ecosystem services.
  7. Promote the development of a coordinated, statewide Oregon native plant and animal conservation policy addressing all land uses and ownership classes. The policy should clearly state public expectations for base-line resource site protection, as well as broader contributions of private forestland owners to achieve state conservation goals. The policy should also specify whether private forestlands would be held to an equal or higher standard as compared to other private land uses.
  8. Rely on Forest Practice rule standards for resource site protections to meet the state of Oregon's contribution towards base-line public expectations of benefits from private forestlands (i.e., formally acknowledge existing levels of protection). Look to non-regulatory and market-based approaches to provide additional public benefits, combined with existing federal and state Endangered Species Act protections. Promote statutory changes and/or change Oregon Administrative Rules consistent with this objective.
  9. Develop principles and standards, in collaboration with appropriate agencies and stakeholders, relating to the creation, measurement, accounting, marketing, verifying, registering, transferring, and selling of forestry carbon offsets from nonfederal forestlands (ORS 526.786).
  10. Landslides and public safety: promote fulfillment of shared responsibility for any additional action to reduce public safety risks (existing statutes). Effective protection of the public requires the shared responsibilities of homeowners, road users, forestland owners, and state and local governments to reduce the number of persons living in or driving through locations prone to shallow, rapidly moving landslides during periods when they are likely to occur. Promote statutory changes consistent with this objective.

## BOARD'S PRIORITY SET OF ISSUES FOR 2014

Based on major issues from the 2011 Private Forests work plan, the 2012 Board retreat, and from 2013 legislative direction, the Board has indicated four main issues to focus on in 2014, with specific topics under each issue:

- Water Quality Topics
  - Riparian Rule Analysis on Small and Medium Fish Streams
  - RipStream Analysis and Results (Downstream, Large wood, Riparian condition)
  - TMDL Process Review, Update of DEQ-ODF MOU, Relationship between BOF and EQC
  - *Eastern Oregon Riparian Policy / Non-fish Stream Riparian Policy (on Hold)*
- Forest Practices Act (FPA) Rule Enforcement Policy Review.
  - Leave Tree and Downed Wood Retention Compliance and Effectiveness (two up and two down) Report and Recommendations
  - Specified Resource Sites Rule Making for Bald Eagles
  - Approach for Strategic Monitoring Update
  - *Landslides and Public Safety Rule Making Process (on Hold)*
  - *Specified Resource Sites Policy Review (on Hold)*
- Implementation of Private Forests-related Budget Notes.
  - FERNS Implementation Update
  - Compliance Audit Report
- Implement Legislative Direction.
  - Special Forest Products Rule Making Process (HB 2615)

### ISSUE/TOPIC: WATER QUALITY TOPICS

The Board is charged with the responsibility to “supervise all matters of forest policy and management under the jurisdiction of the state ...” (ORS 526.016). The Forest Practices Act (FPA) gives the Board exclusive authority to adopt and enforce rules governing forest practices. Oregon statutes create a unique cooperative relationship between the Board and the Environmental Quality Commission (EQC) that ensures water quality protection on forestland. Basically, the EQC sets water quality standards and the Board ensures forest practices meet these standards on state and private forestlands. The FPA requires the Board to regulate nonpoint source discharges from forest operations on forestlands (ORS 527.765).

Over the past 13 years, ODF, DEQ, the Board, and EQC have been cooperating on a process of reviewing Oregon’s forest practices rules and BMPs to ensure an adequate level of protection for

water quality and aquatic and riparian habitats. This review initially focused on 18 water protection rule concepts, which incorporated recommendations from a number of scientific reviews. As of April 2009, the Board completed its review process for these rule concepts, developing a number of new and revised forest practices rules, as well as new and revised voluntary measures under the Oregon Plan for Salmon and Watersheds.

ODF and DEQ continue to cooperate on policy, regulatory, research, and monitoring efforts to ensure continuous review and improvement of water quality protection. The FPA specifically identifies three priority rule divisions for monitoring, water protection, landslides and public safety, and chemicals. The ongoing Riparian Function and Stream Temperature monitoring project (RipStream) focuses on effectiveness of rules and BMPs in protecting stream temperature and promoting riparian structure that provides necessary functions for the protection of fish and wildlife habitat in small and medium fish-bearing streams in the Coast Range. The complementary Watershed Research Cooperative paired watershed studies evaluate the environmental effects on water and fish of contemporary forest management practices now in use on younger intensively managed forests.

Over the past five years, concerns regarding water quality policy have increased due to a number of lawsuits, including the Coastal Zone (CZARA) lawsuit; the Northwest Environmental Defense Center (NEDC) v. Decker forest roads lawsuit; and the recent temperature standards and associated TMDL lawsuits.

At the January 2011 Board meeting, the Department, in conjunction with DEQ, presented a water quality issue summary paper that provided information on 1) the Board's responsibility, authority, and accountability regarding water quality, 2) the relationship between the Board and the EQC, 3) a summary of past Board work on water quality, and 4) emerging issues in water quality policy.

At their January 2012 meeting, the Board initiated a rule analysis of riparian protection standards on small and medium fish streams. The monitoring results leading to this analysis only identified an issue with the Protecting Cold Water (PCW) criterion as based on sample sites in the Coast Range and Interior Geographic Regions of Oregon. At their April 2012 meeting, the Board adopted the following rule objective focused on this criterion (rather than on the complete set of goals for the water protection rules):

Establish riparian protection measures for small and medium fish-bearing streams that maintain and promote shade conditions that insure, to the maximum extent practicable, the achievement of the Protecting Cold Water criterion.

The Board also approved a plan for developing alternatives (April 2012), including non-regulatory approaches, for the rule analysis of riparian protection standards on small and medium fish streams. The plan included a decision timeline on findings (an "informal checklist") to be made at each step of the process to provide the Board clear information about the legal on-ramps, off-ramps and safety nets that define their decision space at each step.

During Board discussions of the riparian rule analysis, concerns were raised regarding the adequacy of riparian protection standards for Eastern Oregon and non-fish bearing streams. The

Department agreed to include the review of Eastern Oregon Riparian Policy and Non-fish Stream Riparian Policy in the water topics to be addressed by the Board.

The rule analysis on small and medium fish streams, RipStream research, paired watershed studies, and road sediment topics form an integrated set of Board work that crosses Division boundaries (see State Forests Division work plan), work products, and timelines that include concerns raised by the lawsuits and DEQ's rulemaking process and basin-specific TMDL process. These topics fit within the Board's *Forestry Program for Oregon*, stated policy objectives for private forests, and the current statutory framework for regulating forest practices.

### ***Task and Deliverables***

The Board will continue the Riparian Rule Analysis on Small and Medium Fish Streams following the decision timeline on findings (informal checklist) approved by the Board in April 2012.

The Board will continue to review and discuss the outcomes from the water quality related lawsuits, and provide direction as appropriate.

The Board will provide policy input and review on the revision of the DEQ-ODF MOU on water quality standards and protection. The Board will review the work plan for the basin-specific TMDL process, and address the need for additional forestry measures identified in the process.

The board will continue to review research results from the RipStream project in regard to the adequacy of the FPA rules and BMPs in meeting water quality temperature standards.

### ***Timeframe with Milestones***

Jan. 2014	Board Executive Session on CZARA, the temperature standard and related TMDL litigation, and the NEDC case.
Mar. 2014	Joint ODF and DEQ update on Board of Forestry and Environmental Quality Commission roles, responsibilities, and relationship on water quality protection and the Protecting Cold Water criterion.
Apr. 2014	Riparian Rule Analysis on Small and Medium Fish Streams. Board will evaluate draft prescriptions and select the least burdensome alternative(s).
Sept. 2014	RipStream analysis and results (Downstream, Large wood, Riparian condition).
TBD	Board review, discussion, policy input, and approval of a revised MOU between the DEQ and ODF and the basin-specific TMDL process

## ISSUE/TOPIC: FOREST PRACTICES ACT (FPA) RULE ENFORCEMENT POLICY REVIEW

The Board's 2011 *Forestry Program for Oregon* supports an effective, science-based, and adaptive Oregon Forest Practices Act (FPA) as a cornerstone of forest resource protection on private lands in Oregon (Objective A.2). The Board's guiding principles and philosophies includes a commitment to continuous learning, evaluating and appropriately adjusting forest management policies and programs based upon ongoing monitoring, assessment, and research (Value Statement 11).

In 2009, the Board began an overall Forest Practices Act (FPA) rule enforcement policy review, including a focus on landslides and public safety, forest pesticides, and special resource site authorities. The Board completed the review of forest pesticides in 2011. There are six topics currently identified for Board work under this review.

### *Leave Tree and Downed Wood Retention Compliance and Effectiveness (two up and two down) Report and Recommendations*

The FPA requires that wood in the form of standing live or dead trees and downed logs be retained during some forest harvest operations for the purpose of contributing to overall maintenance of wildlife, nutrient cycling, moisture retention and other resource benefits of retained wood. Little information is available regarding how regulatory requirements are being met or if they are effective in contributing to the ecological values they are intended to support. The Department conducted an examination of compliance with FPA regulations regarding leave tree and downed logs (ORS 527.676) in the Coast Range of Oregon in 2004 and 2005. The Department is completing a report that summarizes the results of the study.

### *Specified Resource Sites Rule Making for Bald Eagles*

Bald eagle nest, roost, and perch sites currently receive protection under the Forest Practices Act (OAR 629-665-0220 through 665-0240). The bald eagle was removed from the federal Endangered Species Act in July, 2007. The Oregon Fish and Wildlife Commission's delisted the bald eagle from the State List of Threatened and Endangered Species (Oregon Administrative Rules (OAR) 635-100-0125) in 2012.

When a threatened or endangered species is delisted by the Oregon Fish and Wildlife Commission and/or the U.S. Fish and Wildlife Service, the Board must determine whether continued protection of resource sites is warranted. If the Board determines that continued protection rules are warranted, the rules shall be promulgated under the appropriate statutory authority. If the Board determines that continued protection rules are not warranted, existing rules must be repealed. Until such a Board decision is made, the current bald eagle protection measures outlined in OAR 629-665-0220 through OAR 629-665-0240 remain in effect.

### *Approach for Strategic Monitoring Update*

The Forest Practices Monitoring Program Strategic Plan has guided the Division's monitoring priorities since it was developed in 2002. The plan established a prioritized list of monitoring questions categorized by general issues and monitoring type (effectiveness, trend, etc.). The questions were drawn from the previous monitoring strategy, Oregon Plan for Salmon and Watersheds Work Plan, the Forest Practices Advisory Committee final report, and citizen and stakeholder group input in 1994 and 2000. Monitoring projects to address top priority questions are either complete or ongoing except for one question related to Oregon Plan project monitoring which remains unaddressed.

Updating the monitoring strategy is a priority item within the Division's Annual Operating Plan, below the compliance audit and riparian rule analysis. The Department is considering the stratification of key questions and priorities on a spatial basis in order to provide better representation of monitoring issues across the state. As the Department revises the Forest Practices Monitoring Strategy, we will seek Board input and approval.

The monitoring unit is laying groundwork for developing an updated strategy by first defining the team's mission, vision, and values statement. The team sought and received feedback on their draft statement from supervisors, stewardship foresters, natural resource policy academics, and industry scientists. The statement will assist in assessing and prioritizing monitoring topics.

### *Landslides and Public Safety*

At their November 2008 meeting, the Board reviewed draft permanent rule language for the intermediate risk category for landslide and public safety rules. The proposed rule was intended to maximize operational flexibility within the constraints of providing for public safety. The Department also changed rule language for purposes of clarity, efficiency, and effectiveness. These changes included: (1) wording; (2) improving rule organization; and, (3) clarifying the roles of the operator and State Forester regarding shared responsibility, stated in OAR 629-623-0000(1). The Department did not modify the intent and purpose of the rules, as stated in OAR 629-623-0000(3).

The Board determined that the draft permanent rule implemented the provisions of ORS 527.710 (10) but did not result in new or increased standards for forests practices. Therefore, scientific-findings and economic-analysis under ORS 527.714 (5) and (7) were not required. However, given that analysis done in the process of developing the proposed rules indicated some potential for increased restriction and/or economic impact to landowners, the Board directed the Department to provide the Board with appropriate information on alternatives evaluated and economic impact prior to requesting formal rule making authority.

In the process of compiling information for the Board in response to this direction, staff conducted discussions within the Department and externally with stakeholders. This process, coupled with field visits to landslide sites in Oregon, raised issues regarding the direction and scope of the rule revision process. The primary issues involve the scope of rule changes and the Department's interpretation that the proposed draft rules did not result in new or increased standards for forests practices. Issues raised about the process and rule changes suggested that the draft permanent rules presented to the Board in November 2008 may not "improve the

intermediate risk rules and ... improve the overall clarity, efficiency and effectiveness of the division rules” as was originally directed by the Board in November 2006. In order to ensure greater success at meeting this original direction, the Department determined that there was a need to broaden the scope of the rule revision process.

### *Specified Resource Sites Policy Review*

After more than a decade since the adoption of special resource site protection policies, Board review of such policies—related statutes and/or rules—is needed in light of changing circumstance for private forests in Oregon and species protection efforts. Changes include the development of a Federal recovery plan for spotted owl, effective implementation of the Oregon Plan for Salmon and Watersheds, Oregon Department of Fish and Wildlife’s development of a statewide conservation strategy, and the development of a programmatic Safe Harbor Agreement for Spotted Owls.

A policy-level review of the current approach to special resource site protection should address the following topics:

- What is the most appropriate role of the state / Department vis-à-vis the Endangered Species Act and federal regulations for species protection?
- Does the implementation of current policy remain appropriate given the evolution of economic, social, and environmental issues in Oregon since the policies were adopted?

### *Task and Deliverables*

The Board will review the final “Compliance with Leave Tree and Downed Wood Forest Practices Act Regulations” technical report and recommendations and provide directions on next steps.

An issue paper on the status of the bald eagle under the FPA, the Board responsibilities under OAR 629 Division 680, and a process for completing these responsibilities.

A draft approach / process for updating the Forest Practices Monitoring Program Strategic Plan. The Board will review and provide input on how the department should develop strategic monitoring.

### *Timeframe with Milestones*

- |            |                                                                                                                                          |
|------------|------------------------------------------------------------------------------------------------------------------------------------------|
| Apr. 2014  | Compliance with Leave Tree and Downed Wood (two up and two down) Forest Practices Act Regulations, Technical Report and Recommendations. |
| July 2014  | Issue Paper on Specified Resource Sites Rule Making for Bald Eagles.                                                                     |
| Sept. 2014 | Approach for Strategic Monitoring Update.                                                                                                |

**ISSUE/TOPIC: IMPLEMENTATION OF PRIVATE FORESTS-RELATED BUDGET NOTES.**

The Department's 2011 legislative adopted budget contained resources to restore capacity in the Private Forests division, including resources for the Forest Practices monitoring unit. The bill also contained two budget notes, directing the Department to 1) hire an independent contractor to audit compliance with the FPA, and 2) contract with an independent third party to assess and make recommendations on cost savings, efficiencies, and cost avoidance strategies that could improve administration of the FPA.

The Department contracted with an independent third-party to assess and make recommendations on cost savings, efficiencies, and cost avoidance strategies that could prove effective for the administration of the Forest Practices Act. The Department worked with representatives from other state agencies and private and public forestland owners, to develop a recommendation on the potential budgetary, programmatic, and service delivery alternatives. The report and recommendations were submitted to the interim Joint Committee on Ways and Means in November, 2011.

The Department presented status of the compliance audit and results of the efficiency and effectiveness review to the Board in September of 2012. At their October 2012 planning retreat, the Board indicated that they would like to be kept informed of further progress and work related to the budget notes.

***Task and Deliverables***

Department will provide an update and demonstration of the on-line notification system, Forest Electronic Activity and Reporting Notification System (FERNS). Board will review /discuss policy issues raised during development of FERNS.

Board will review and discuss the results of the 2013 FPA Compliance Audit.

***Timeframe with Milestones***

TBD            FERNS Implementation Update.

June 2014    Compliance Audit Report.

## ISSUE/TOPIC: IMPLEMENT LEGISLATIVE DIRECTION.

HB 2615 was introduced at the request of Oregon Small Woodlands Association to address the lack of ability to enforce restrictions on truffle harvests on their own property because of the use of the definitions in the statute regarding harvest of special forest products. While mushrooms were defined as special products, truffles were not because they are fungi, but technically not a mushroom. HB 2615 primarily amended ORS 164.813 Unlawful cutting and transport of special forest products and ORS 164.814 State Forester required to develop forms for special forest products. ORS 164.845 and ORS 164.855 were amended to adjust references. Since HB 2615 and associated statutes address special forest products, the necessary rulemaking was incorporated into the Private Forests work plan. Note that this rulemaking does not require a rule analysis under ORS 527.714 as it does not address a forest practice regulated under the Forest Practices Act.

HB 2615 (2013 legislative session) serves two main purposes: (1) To include all fungi, including truffles, in the existing permitting system for special forest products, and (2) places the role of identifying special forest products within the rulemaking authority of the Board of Forestry. Under the bill, new rules must be operative by July 1, 2014 and new permit forms available for use by October 1, 2014. By necessity, the rulemaking process will be narrow in scope; the list of special forest products currently in statute will be codified in rule and criteria established by which new special forest products must be evaluated for future additions.

The Board approved the Department moving forward with rulemaking associated with HB 2615 at their November 2013 meeting. The Board also approved utilizing the Regional Forest Practices Committees as the advisory group for the rulemaking process.

### ***Task and Deliverables***

The Department will conduct rulemaking; ensuring work with the advisory group is timely; complete an outreach schedule that meets the needs of the public and those stakeholders concerned and/or affected by the changes; and, provide for Board review and input, as well as incorporation of the Secretary of State Timeline.

### ***Timeframe with Milestones***

June 2014      Final rule language for implementing HB 2615 for the Board's review.

## Oregon Board of Forestry Work Plans Draft Private Forests 2014 Matrix

Private Forests Work Plan	Board of Forestry Agenda						
	Jan	Mar	Apr	June	July	Sept	Nov
<b>Focus on Water Quality Topics</b>							
<i>Specific Topics and Milestones</i>							
❖ Riparian Rule Analysis on Small and Medium Fish Streams			X				
❖ RipStream Analysis and Results (Downstream, Large wood, Riparian condition)						X	
❖ TMDL Process Review, Update of DEQ-ODF MOU, Relationship between BOF and EQC		X					X
❖ <i>Eastern Oregon Riparian Policy / Non-fish Stream Riparian Policy</i>	<i>Hold</i>						
<b>Conduct Forest Practices Act (FPA) Rule Policy Review</b>							
<i>Specific Topics and Milestones</i>							
❖ Leave Tree and Downed Wood Retention Compliance and Effectiveness (two up and two down) Report and Recommendations			X				
❖ Specified Resource Sites Rule Making for Bald Eagles					X		
❖ Approach for Strategic Monitoring Update							X
❖ <i>Landslides and Public Safety Rule Making Process</i>	<i>Hold</i>						
❖ <i>Specified Resource Sites Policy Review</i>	<i>Hold</i>						
<b>Oversee implementation of Private Forests-related budget notes</b>							
<i>Specific Topics and Milestones</i>							
❖ FERNS Implementation Update	TBD						
❖ Compliance Audit Report				X			
<b>Implement Legislative Direction</b>							
<i>Specific Topics and Milestones</i>							
❖ Special Forest Products Rule Making Process (HB 2615)				X			
<b>Board Updates</b>							
<i>Specific Topics and Milestones</i>							
❖ Operator of The Year Award		X					
❖ Invasive Species	X					X	
❖ Annual Forest Health						X	
❖ Annual Monitoring						X	
❖ Urban and Community Forestry Program							X

## Oregon Board of Forestry Work Plan Dashboard

Private Forests Work Plan	Information Gathering	Analysis	Board Discussion / Direction	Recommend / Revisions	Final Decision
<u>Water Quality</u> : Riparian Rule Analysis on Small and Medium Fish Streams					
<u>Water Quality</u> : RipStream Analysis and Results (Downstream, Large wood, Riparian condition)					
<u>Water Quality</u> : TMDL Process Review, Update of DEQ-ODF MOU, Relationship between BOF and EQC					
<u>FPA Review</u> : Leave Tree and Downed Wood Retention Compliance and Effectiveness (two up and two down) Report and Recommendations					
<u>FPA Review</u> : Specified Resource Sites Rule Making for Bald Eagles					
<u>FPA Review</u> : Approach for Strategic Monitoring Update					
<u>PF Budget Notes</u> : FERNS Implementation Update					
<u>PF Budget Notes</u> : Compliance Audit Report					
<u>Legislative Direction</u> : Special Forest Products Rule Making Process (HB 2615)					