

Agenda Item No.:	7
Work Plan:	Private Forests Work Plan
Topic:	Forest Practices Act (FPA) Rule Policy Review
Presentation Title:	Petition to Initiate Rulemaking and Identify Resource Sites to Establish an Inventory and Protect Existing Marbled Murrelet Sites
Date of Presentation:	July 20, 2016
Contact Information:	Peter Daugherty, Division Chief, Private Forests Division 503-945-7482, peter.daugherty@oregon.gov

SUMMARY

The Board of Forestry (Board) will review and discuss the Petition to Initiate Rulemaking under specified resource sites for the marbled murrelet, received on Tuesday June 21, 2016 (Attachment 1). The department will outline Board options and timeline for response. The department will also identify issues and alternatives for the Board to discuss.

CONTEXT

The Board’s 2011 Forestry Program for Oregon strives to conserve diverse native plant and animal populations and protect and improve their habitats in Oregon's forests (Goal E). The Board promotes the development of specific, measurable habitat conservation expectations for all land uses through the Oregon Conservation Strategy. The Strategy should also clarify that private forestlands will be held to the same standards for native species and habitat conservation as other private land uses (Objective E-4). The Board also promotes a variety of non-regulatory tools, such as landowner recognition, incentives, easements, exchanges, and technical assistance, to help implement the forest-related elements of the Oregon Conservation Strategy (Objective E-4).

BACKGROUND

The Board’s Private Forests Work Plan has a set of priority issues for 2016-2017, which includes a Specified Resource Sites Policy Review under the Forest Practices Act (FPA) Rule Policy Review. The topic recognizes that more than a decade has passed since the adoption of special resource site protection policies and that a Board review of such policies—related statutes and/or rules—is needed in light of changing circumstances for private forests in Oregon and species protection efforts. Changes include the development of a Federal recovery plan for spotted owls, 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. Overall there is also a growing recognition that species-by-species approaches to resource protection, as opposed to more holistic landscape level approaches, may not be the most effective or efficient means to achieve specified resource site protection goals.

ANALYSIS

The Petitioners request the Board of Forestry: (1) collect and analyze the best available information on marbled murrelets; (2) conduct a resource site inventory; and (3) adopt rules to protect resource sites and to develop a process to identify new sites in the future. ORS 527.710(3)(b), (c). Specifically, the Petitioners propose the addition of a new rule with proposed rule language specified in the petition (see attachment 1, pages 26-27).

The Board (within 90 days) must consider the petition and make a decision on whether to deny the petition or to initiate rulemaking. If the Board initiates rulemaking, it is not bound by the proposed language, but can come up with its own language. If the Board denies the petition, it must do so in writing. The Board has broad discretion on this and staff may make recommendations, but ultimately it is the Board's responsibility to respond.

The department is currently analyzing the petition and evaluating potential Board responses. The department analysis will identify pros and cons of alternatives and their and consequences.

RECOMMENDATION

This board agenda item is informational only.

NEXT STEPS

Based on Board discussion, the department will complete a decision paper for the September Board meeting.

ATTACHMENTS

1. Petition to Initiate Rulemaking and Identify Resource Sites to Establish an Inventory and Protect Existing Marbled Murrelet Sites. 33p.