

Work Plan: Private Forests Division
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DIVISION OVERVIEW

Purpose & Objective

The Oregon Department of Forestry provides resource protection and landowner assistance on Oregon's 10.3 million acres (34 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, tree improvement, and incentive programs. These forests provide values for all Oregonians, including watershed protection, ecosystem services, economic activity, fish and wildlife habitat, and recreation. At the broadest level, the following Oregon Revised Statutes define the current policies governing landowner services provided by the Private Forests division:

ORS 527.630 Policy. (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 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.

ORS 526.425 Management assistance to nonindustrial private forest landowners. 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.

ORS 526.505 Urban and Community Forestry 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.

Current Issues and Focus

Since the founding of the Department of Forestry in 1911, Oregon has witnessed, and met, primary challenges as a continuous evolution of maintaining healthy, sustainable forests on both private and public forestland, whether it was protection from wildfire or the creation of reforestation laws. The passage of Oregon's Forest Practices Act (FPA) in 1971, was precipitated by an increase in the public's environmental awareness and concern regarding natural resource protection. The FPA and associated best management practices emphasize 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 - conversion and fragmentation of forestlands and the associated challenges with increased development pressure.

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 conversion in the future. 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. Private lands close to expanding population centers and family forests are particularly threatened by these trends. Of all the human impacts to forests, development causes the most permanent change.

A report by the USDA Forest Service states nearly 80 percent of the nation's freshwater originates from forestland. When forests are lost to conversion, stand replacing wildfire, or severe insect and disease outbreaks, the quality and quantity of our water supply is affected. Forests, water, fish and wildlife habitat, and people are intricately connected and the challenges of urban sprawl, forest conversion, climate change, invasive species, and severe wildfires are more daunting and complex than when the FPA was enacted in 1971.

These changes and challenges affect the Department's ability to deliver efficient and effective services to private forest landowners and thus maintain healthy forests. ODF faces a significant task in

administering the FPA **and** providing wildland, urban, and community forest education and technical assistance. ODF field staff spend an increasingly disproportionate amount of time working with complex natural resource situations and conflicts in forests already at risk of conversion and fragmentation. The Department must ensure it continues to deliver a mix of services that meets the diverse needs of Oregonians, landowners, communities, developers, regulators and stakeholders across a broad diversity of forests while promoting and conserving forest land and forest values. Thus, where the regulatory approach was the tool in the past, the changing landscape and socio-economic needs of society highlight the need to develop new and innovative landowner and institutional strategies to address today's challenges.

DIVISION TOPICS FOR THE BOARD OF FORESTRY 2018-2019

- Water Quality Topics
 - RipStream Analysis and Results
 - Eastern Oregon/Siskiyou Streamside Protection Review
- Forest Practices Act (FPA) Rule/Policy Review
 - Specified Resource Sites Policy Review
 - Specified Resource Sites Rule Analysis for Marbled Murrelets
 - *Landslides and Public Safety Rule Making Process (on hold)*
- Implement Legislative Direction
 - HB 3013 – Wildlife Food Plots
- Annual Topics
 - Operator of the Year Award
 - Committee for Family Forestlands Report
 - Annual Forest Practices Agency Meeting Report
 - Forest Health Report
 - Monitoring Report
 - Urban and Community Forestry Program
 - Non-Industrial Forest Landowner Program
 - Board and EQC – Joint Topics as requested

ISSUE: Water Quality Topics

Overview

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. 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).

Purpose

RipStream Analysis and Results

ODF designed and conducted the Riparian Function and Stream Temperature study (“RipStream”) in collaboration with an external review team. This study focused on assessing the effectiveness of FPA rules and State Forests management practices in protecting stream temperature (a water quality standard) and promoting riparian structure that meets the desired future conditions (DFC) along small and medium fish-bearing streams. The DFC is designed to provide protection of water quality, fish, and wildlife habitat in riparian areas along these streams.

Eastern Oregon/Siskiyou Streamside Protection Review

During Board discussions of the riparian rule analysis, concerns were raised regarding the adequacy of riparian protection standards for eastern Oregon and the Siskiyou region. At the November 2016 meeting, the Board finalized the Private Forest Division’s Monitoring Strategy. In conversing about the Strategy, the Board discussed the need to address issues in the Siskiyou and Eastern Oregon regions. The Board directed the Department to:

- Develop potential questions regarding streamside protections in the Siskiyou and Eastern Oregon regions;
- Estimate the timeline and resources to address questions for various levels of study rigor; and,
- Work with stakeholders to inform the Department and the Board.

The Department will include the review of eastern Oregon and Siskiyou streamside protections in the water quality topics to be addressed by the Board.

Board Deliverables with Timelines

RipStream Analysis and Results

The board will continue to review research results from the RipStream project on adequacy of the FPA rules and BMPs in meeting desired riparian condition and related functions, e.g., large wood recruitment.

Eastern Oregon/Siskiyou Streamside Protection Review

March 2018

Board Discussion/Decision:

- Which monitoring question(s) to address;
- Where to focus the questions (including stream type, size, and geographic region); and,

- What level of rigor with which to address the question(s).

Outreach

EOA/Siskiyou outreach plan as per charter presented at July 25, 2017 Board meeting.

ISSUE: Forest Practices Act (FPA) Rule/Policy Review

- Specified Resource Sites Policy Review
- Specified Resource Sites Rule Analysis for Marbled Murrelets
- *Landslides and Public Safety Rule Making Process (on Hold).*

Overview

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.

Purpose

There are now 3 topics currently identified for Board work under this review.

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 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, Ballot Measure 49, 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.

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 in relation to 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?

Specified Resource Sites Rule Analysis for Marbled Murrelets

In June 2016, the Board received a Petition to Initiate Rulemaking under specified resource site rules for the marbled murrelet. The Board considered the petition during their meeting on July 20. Acting within its authority under the Administrative Procedures Act, the Board denied the petition. In September, the petitioners submitted a Petition to Review an Agency Order through the Lane County Circuit Court to request the court compel rulemaking.

In November, the Board of Forestry held a public meeting and accepted public comment to reconsider their decision to deny the petition for rulemaking. After consultation with the Oregon Department of Justice, the Board voted to withdraw and reverse its previous decision on the rulemaking petition.

In response to the Board's decision, the petitioners withdrew their Petition to Review an Agency Order with the Lane County Circuit Court. In March 2017, the Board directed the department to begin work on a Marbled Murrelet technical report as per OAR 629.680.0100.

Landslides and Public Safety (on hold)

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 sought to change the 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 ORS527.710 (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 involved 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. The department suspended this rule change process due to the loss of the Private Forests Division Geotechnical Specialist position in 2009.

Board Deliverables with Timelines

Specified Resource Site Policy Review

Staff report and presentation introducing specified resource site review topic July 2018

Marbled Murrelet

Present Draft Technical Report to the Board; Initiate Expert Review Panel April 2018

Present Expert Review Panel Summary Report to Board 2019

Discussion and Decision on resource site for Marbled Murrelets 2019

Outreach

The Department will pursue all opportunities to engage interested stakeholders in ongoing work for Marbled Murrelet policy review as well as the broader topic of Specified Resource Site policy.

The Department will endeavor to reach out to all of Oregon’s federally recognized Tribes when the Board begins their discussions on Specified Resource Site policy.

ISSUE: Implement Legislative Direction

Overview

In the 2015 regular session, the Oregon State Legislature passed House Bill (HB) 3013, relating to wildlife food plots which will require rulemaking by the Board.

Purpose

HB 3013 allows small forestland ownerships (at least 10 acres, but less than 5,000 acres) subject to reforestation requirements under Forest Practices Act, to establish wildlife food plots within the boundaries of the ownership. The bill defines “Wildlife food plot” as a small forestland area that, instead of being used for growing and harvesting of forest tree species, is planted in vegetation capable of substantially contributing to wildlife nutrition. The bill specifies limits for combined size of the wildlife food plots on an ownership and defines establishment of food plots as a forest practice and forest operation requiring notice to the State Forester. The Bill requires the Board to adopt rules to carry out these provisions and to consult with the Oregon Department of Fish and Wildlife to identify vegetation capable of substantially contributing to wildlife nutrition.

Board Deliverables with Timelines

The Department will develop a plan for the HB 3013 rulemaking process. The department will hold initial meetings with stakeholders to define scope and purpose of rules, gather general concept input and information, and develop an issue paper. The department will seek Board approval to begin rulemaking. The department will develop draft rule language for Board review and approval.

Staff report describing plan for HB 3013 rulemaking process, including scope and purpose of rule, stakeholder input, and issues to address. November 2018

Draft rule language for implementing HB 3013 for the Board’s review. 2019

Public Hearing process for rule review 2019

Outreach

Committee for Family Forestlands to serve as the rule advisory committee;
Outreach to Oregon Small Woodlands Association and Oregon Tree Farm System;
Draft rule language review with the three Regional Forest Practices Committees.

ISSUE: Board Updates

Overview

The Private Forests Division provides the Board annual reports and topics that include the following:

Board Deliverables with Timelines

Operator of the Year Award	March 2018, 2019
Annual Forest Practices Agency Meeting Report	March 2018, 2019
Committee for Family Forestlands Report	July 2018, 2019
Forest Health Report Monitoring Report	Sept. 2018, 2019
Urban and Community Forestry Program Update Non-Industrial Forest Landowner Program Update	
Board and EQC – Joint Topics and field trips	as requested

Private Forests Division Work Plan	CY 2018 Board of Forestry Agenda						
	Jan	Mar	Apr	June	July	Sept	Nov
Water Quality Topics							
<i>Milestones</i>							
❖ RipStream Analysis and Results						X	
❖ Eastern Oregon/Siskiyou Streamside Protection Review	X	X					
Forest Practices Act (FPA) Rule/Policy Review							
<i>Milestones</i>							
❖ Specified Resource Sites Policy Review					X		
❖ Specified Resource Sites Rule Analysis for Marbled Murrelets			X				
❖ <i>Landslides and Public Safety Rule Making Process (on hold)</i>							
Implement Legislative Direction							
<i>Milestones</i>							
❖ HB3013 – Wildlife Food Plots							X
Board Updates							
<i>Milestones</i>							
❖ Operator of the Year Award		X					
❖ Committee for Family Forestlands Report					X		
❖ Annual Forest Practices Agency Meeting Report		X					
❖ Forest Health Report						X	
❖ Annual Monitoring Report						X	
❖ Urban and Community Forestry Program						X	
❖ Non-industrial Forest Landowner Program						X	
❖ Board and EQC – Joint topics as requested							