

2023 Annual Legislative Report

Senate Bills 1501 & 1502 Private Forest Accord Implementation Update



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Private Forest Accord Update

STATE OF OREGON

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Background

In February 2020, conservation and forest industry groups offered to revise the Forest Practices Act and administrative rules through a memorandum of understanding to include mediated discussions, known as the Private Forest Accord (PFA). In June 2020, the legislature adopted SB 1602 which increased helicopter spray buffers, directed rulemaking for salmon, steelhead, and bull trout streams in the Siskiyou Region, and set communication laws for spraying pesticides by helicopter. The bill set the accord timeline and topics for making changes to the Forest Practices Act and rules from which the Board could apply for a programmatic habitat conservation plan (HCP). The PFA concluded in October 2021. In March 2022, the legislature adopted the accord recommendations through Senate Bills 1501 and 1502, and House Bill 4055. Senate Bill 1501 incorporated by reference the PFA Report dated February 2, 2022. The PFA Report further detailed the recommended changes to the Forest Practices Act rules and a pathway for an HCP.

Executive Summary

Since March, Department of Forestry staff have closely consulted the representative authors of the PFA Report to draft administrative rules as directed by the legislature. Each rule topic had a staff lead to focus on the topic and consult the authors on a bi-weekly basis from April until August.

On August 24, 2022, we directed the department to open public comment for 30-days and hold public hearings to collect oral and written testimony on the draft proposed rule package. During that time the board held three in-person information sessions across the state and staff answered questions. The board also held three virtual public hearings to collect oral testimony. Since our August meeting, staff continued to review the draft rules for copy editing, consistency, errors, and omissions. The rulemaking covers riparian areas, timber harvests on steep slopes, roads, setting up a small forest landowner office with alternate riparian and road management options, compliance monitoring, enforcement, adaptive management policy committee framework, and a Forest Conservation Credit.

On October 26th, 2022 the board adopted the full rule package. The department filed the board's rule package with the Secretary of State by November 30, 2022.

Senate Bill 1501 directed the board to set up an adaptive management program. This program will help inform future rulemaking and support the application to the U.S. Fish & Wildlife and National Marine Fisheries Service, informally known as NOAA Fisheries, and together as "the Services" for a programmatic HCP. When the Services approve an HCP, they issue an incidental take permit. The goal of the program is to use best available science to assess the rule effectiveness for protecting several fish and other aquatic species.

The program requires an Adaptive Management Program Committee (AMPC) to direct the work. The AMPC sets the research agenda for the program and recommends rule changes to the Board

based on research findings. During its November 16 meeting the board appointed 10 members to the AMPC. The department will convene the AMPC in early 2023.

On December 19, 2022, the Board directed the department to submit the Proposed Draft Aquatic HCP to the Services and pursue an incidental take permit in alignment with the PFA legislation. The department submitted the HCP to the Services on December 22, prior to the SB 1501 deadline of December 31, 2022. The department continues work on this HCP in anticipation of receiving an incidental take permit by the end of 2027.