



Developing Riparian Rule Prescriptions

Comments by Rex Storm, Certified Forester
Forest Policy Manager, Associated Oregon Loggers, Inc.
before the Oregon Board of Forestry – June 3, 2015

Chair Imeson and Board members, my name is Rex Storm, Forest Policy Manager for Associated Oregon Loggers (AOL). I make these comments on behalf of the 1,000+ member companies of AOL, representing logging, transportation, construction, and allied forest management businesses working across Oregon. AOL member companies not only manage private and public forests on a contract basis, many also own and operate forestlands. Your consideration of changed Oregon Forest Practices riparian rules is of critical concern to our work. For full disclosure, I have personal interest in this rulemaking as a forest stream landowner, and via my affiliations with Oregon Small Woodlands Association, OR Tree Farm System, and the Board's Committee for Family Forestlands.

AOL submits to you today our recommended rule changes, for which to address the small variance concerning Protecting Cold Water criterion (PCW). At your April meeting, I urged Board consideration of our professional recommendations concerning how several "maximum extent practicable" factors can rationalize small, but meaningful riparian rulemaking changes.

In previous testimony, we discussed with you the "maximum extent practicable" (MEP) discretion that the Department and Board has to craft those targeted few riparian rule changes. Such incremental changes would sufficiently address the Board's previous PCW degradation finding; incremental changes would foster continuous voluntary improvement by the landowner/ operator regulated community, as well as enrich a sustainable forest riparian resource into the future.

As you consider the measures of MEP to apply to this matter, I am encouraged that you will address the relative significance of the small PCW variance and those commensurately small rule changes that would be appropriate to continue our strong record of riparian improvement.

Although we have heard what the RipStream modelling says about various prescriptions, we respect that the Board does see the big picture and you are thoughtful about MEP consideration of several realities:

- A. RipStream shows an instantaneous time & space situation. Dynamic forest streams behave beyond this artificial, singular metric—rapidly recovering after disturbances in a few years and a few hundred feet downstream.
- B. Relative to natural recurring stream changes, this variance is minor. Over the course of a season, a year, a decade, a forest rotation, a century—forest streams naturally experience and recover from periodic disturbances, such as those modelled by RipStream.

- C. The singular PCW criterion fails to contemplate the context of natural conditions. Absent a natural conditions criterion in Oregon’s water quality standard, the broad natural variation and behavior among forest streams must be weighed during your MEP consideration.
- D. The isolated PCW criterion also fails to contemplate the context of fish designated use. Because the PCW platitude ignores the forest stream designated use, the current robust health of fish habitat and native populations within forest streams must be weighed during your MEP consideration.
- E. Willing cooperation and voluntary stream improvement is now creating the greatest riparian gains. Private forest landowners & operators have a successful record of voluntary stream improvements fiscal investment in stewardship enhancements, and strong riparian rule compliance. Any rulemaking should not impair this cooperation. Your assessment would benefit from consideration of how to avoid unintended consequences of potential damage to this “cooperative stewardship.” The harm from unintended consequences of an overreaching rulemaking would be costly to all.

Forestry stakeholder expertise in their 40+ year history of FPA continuous improvement. Forest landowners & operators have a longstanding solid investment in continued resource protection through the Forest Practices Act & Rules. The riparian rulemaking recommendations from this committed community would be your best guide toward sustainable and continuous improvement of streams.

RMA Rules should foster the existing “cooperative stewardship.” A combination of *both* regulatory *and* non-regulatory measures would best encourage the willing cooperation and fiscal investment of forest landowners & operators to both the following:

- a) Willing compliance with the RMA Rules similar to the current; and
- b) Voluntary contribution of abundant additional stewardship enhancements to private land forest streams.

The sum of these two invaluable private sector contributions has together led to improving Oregon forest streams, more than anywhere in America. It behooves us together—agencies, landowners, and operators alike—to mutually set RMA policy that would foster more of this continuous improvement at voluntary private investments in forest streams.

AOL recommended rule upgrades. Then, we recommend incremental changes to Oregon’s Forest Practices Rules and administration, which would continue to foster the necessary long-term stream condition improvements sought to address the small PCW variance. We urge you to thoughtfully continue Oregon’s current effective and practicable riparian rules, by supplementing rules with those enhancements that would continue to encourage a robust contribution of future voluntary improvements and willing compliance during streamside operations—that’s strong voluntary continuous improvement by both operators and landowners.

AOL Recommended Rule Upgrades to Address PCW

The following AOL-recommended changes to Oregon's Forest Practices Rules and administration would achieve the necessary long-term stream condition improvements sought to address the PCW, to the maximum extent practicable. We urge you to thoughtfully continue Oregon's current effective and practicable riparian rules, by supplementing them with the following enhancements borne from AOL's 46-years of operational experience in managing Oregon forest riparian areas. We support a recipe of solutions to the PCW variance located in coastal forest headwater streams:

REGULATORY CHANGES

1. OR Forest Practices Rule requiring reporting of voluntary riparian projects. OFPA Rule change would require Oregon Dept. of Forestry riparian/stewardship foresters to identify, record, and report accomplishment of voluntary additional riparian enhancements that add extra stream protections (projects by landowners & operators that exceed OFPA rules).
2. Oregon Dept. of Forestry to secure legislative authority—budget and personnel FTE—to conduct additional riparian protection administration, including: 4-6 FTE riparian specialists to assist landowners & operators in RMA voluntary enhancements and riparian compliance; sufficient budget funds for staff FTE to account for RMA voluntary enhancements; annual reporting of RMA voluntary enhancements; delivery of operator education to advance FPA compliance; and increase outreach efforts to promote RMA voluntary enhancements.
3. Limited stream reaches – Apply new rules only where salmon-steelhead-bull trout are currently present [SSBT] (use ODFW current maps).
4. Limited geographic area – Apply new rules to just the two coastal georegions.
5. Menu of options to apply to Coastal SSBT, including: a) One-sided harvest; b) Variable retention; and c) Alternative Rx.

Concerning these three prescription options, we would support those options thoughtfully crafted and proposed by the Northwest and Southwest regional Forest Practices Committees. We have provided the Department with an outline of suggestions that are similar to those of the draft Regional proposal, as we understand it.

NON-REGULATORY CHANGES

1. ODF administration of voluntary riparian project accountability. Oregon Dept. of Forestry riparian specialists/stewardship foresters to identify, record, and report accomplishment of voluntary additional riparian enhancements, which add extra stream protections (projects by landowners & operators that exceed OFPA rules).

2. Increased ODF outreach efforts to promote RMA voluntary enhancements:
 - Improved promotion materials and access to landowners, operators
 - Republish a more robust “Guide” to voluntary actions to assist fish & streams
 - Establish program to assist landowners & operators with voluntary RMA enhancements
 - Establish program to monitor, collect, and report annual landowner/operator completion of RMA voluntary enhancements
 - Establish program to increase outreach that promotes RMA voluntary enhancements

3. Redouble ODF investment in its existing Operator Education MOA, to promote RMA voluntary enhancements:
 - ODF has an existing longstanding formal relationship with Associated Oregon Loggers, Inc. to cooperate in delivery of operator education to advance FPA compliance and professionalism (Memorandum of Agreement for Operator Education, since 2001)
 - Increase ODF staff commitment to promote operator education surrounding RMA voluntary enhancements and RMA compliance.

4. Voluntary no-harvest RMA buffer: Small F = 50’; Medium F = 70’ (slope distance)
 - ODF riparian specialists assist with RMA plan, layout and recording
 - ODF riparian specialists inventory in-stream large wood before harvest along RMA; and if stream deficient of LWD, then recommend landowner fall or place large logs in-stream (from within RMA or outside)
 - In-unit 2 wildlife trees/acre may be located in this RMA
 - ODF to record and report in-stream projects

In conclusion, we are confident that you respect the forest operator’s important role in rulemaking as necessarily pivotal and constructive to achieving successful outcomes. As stakeholders, the forest operator sector remains a unique voice among the regulated community, as operators in their daily safe business performance are often positioned between the landowner, timber purchaser, Department, OR-OSHA, concerned neighbors, and interested publics.

This unique operator position is an integral intersection—where forest resource protection meets the effective performance during on-the-ground management—where cooperative stewardship by the regulated community leverages the greatest amount of voluntary stream investment and high rule compliance—where continuous improvement of forest streams happens every day!

Thank you for considering our comments about RMA rulemaking methods. I look forward to cooperating together with the Board, Department, and landowners to assure effective Forest Practices Riparian Rules that can be willingly implemented by operators and landowners alike. You can reach me at the office: 503-364-1330; cell: 503-930-4122; or email: rstorm@oregonloggers.org