



# **Riparian Rules/SSBT Rulemaking Update**

**Board of Forestry**  
**27 April, 2016**



## **Outline of Presentation**

- **Context and Background**
- **Overview of Rule Advisory Committee process**
- **Charter and Operating Principles**
- **Issues requiring policy clarification**
- **Progress to Date**
- **Next Steps**

## Context and Background



- **Context**
  - Supports an effective, science-based, and adaptive FPA as a cornerstone of forest protection on private lands in Oregon.
  - Commitment to continuous learning (Value Statement 11).
  - Values broad-based, informed public participation and consensus-based decision-making (Value Statement 10).

## Context and Background



- **Background**
  - Adopted a final riparian prescription package for small and medium SSBT streams in western Oregon. The package describes the elements that need to be included in rule language.
  - Directed the department to establish a Rulemaking Advisory Committee

## **Overview of Rule Advisory Committee process**



- **Riparian Rulemaking Advisory Committee (RAC) Members.**
- **Choose to have facilitated meetings.**
- **Three meetings held – two more meetings needed.**
- **On track to meet September 1, 2017 effective date.**

## **Charter and Operating Principles**



- **Purpose**
  - **Discuss and provide feedback on policy issues that need further clarification;**
  - **Provide feedback to assist department to develop/write clear language to describe the Board's new riparian standards; and**
  - **Discuss and provide input on the fiscal impacts of the proposed regulations.**

## Operating Principles



- **Seek to operate by consensus and strive to make consensus-based recommendations**
- **Trust agreement:**
  - will wait to make presentations about substantive issues to either a quorum of the Board of Forestry or the press until the committee's work is complete.
  - concerns about the process or the direction the committee is taking will be raised with the facilitation team and the committee prior to raising these issues with the Board of Forestry, the press or the public.

## Operating Principles



- **Decision making:**
  - advisory committee understands that the Board of Forestry has final decision-making authority on all policy issues.
  - The department is committed to considering input and advice from the advisory committee when making recommendations to the Board.
  - When consensus is not reached, the department will describe and address the full range of views of the committee.

### **Issues requiring policy clarification**



- **Define/identify SSBT streams as a subset of small and medium fish-bearing streams**
- **Stream extent and immediacy of harvest unit**
- **Defining well distributed throughout the RMA**
- **Implement all current rules apply**
- **Define/verify parcel, encumbrance, equity relief**
- **Define North-sided buffers and appropriate scale**

### **Committee Identified Issues**



- **What is meant by 50% of wildlife trees can be counted in the RMA, and double-counting concerns?**
- **The rule should result in the Desired Future Conditions; this needs more discussion.**
- **The need to ensure rule language that would encourage thinning or at least not discourage it.**

## Progress to Date



- **Charter and Operating Principles approved with a strong consensus (all 1's and 2's).**
- **Meaning of 50% of wildlife trees: The RAC agreed, with strong consensus, that this suggested language should be provided to the Board as a RAC recommendation (all 1's and 2's):**
  - **For both small and medium SSBT streams, any tree in the RMA that meets the wildlife tree requirements can count as a wildlife tree. And, up to 50 percent of required wildlife trees can count towards meeting basal area requirements.**

## Progress to Date



- **Minimum diameter for conifer leaf trees:**
  - **There was mixed response with regard to whether the conifers counted should have a 6" or 8" diameter**
  - **It was suggested that ODF staff recommend an 8" diameter for conifer leaf trees regardless of stream size**
    - **No active opposition**
    - **Some expressed that they do not know if it will be an issue in the future**
    - **Will wait until rule language is presented to voice decision**

## Progress to Date



- **Define/identify SSBT streams:**
  - The RAC expressed general agreement that the FHD streams that have documented observation, or are downstream of documented observation are legitimate to use in the rule.
  - The group expressed general agreement that the database needs to be updated on a case by case basis and that there needs to be established interval for programmatic updates and criteria developed.
  - The RAC reached strong consensus that whatever rule was in place when the notification was filed applies to that unit plan, as long as there is no evidence of gaming the system and notifications cannot be expanded beyond the two-year allocation (all 1's and 2's).

## Summary of defining SSBT Streams



- **Areas of Agreement:**
  - around 80% of the current FHD layer (documented observation and downstream) and agreement around correcting on a case-by-case activity-basis as described under a clear set of criteria.
  - agreement that there needs to be a programmatic update, but not agreement on the criteria in use
  - seems to be agreement on the frequency of programmatic update and active notification
- **Areas of Disagreement:**
  - on the 20 to 30% of the FHD layer based solely on concurrence professional opinion, or using concurrence of professional opinion in the update process

## In Progress

- **Progress made in the April Meeting:**
  - Agreement on how to determine eligible segments (scale) and implementation length of segment to use for the North-sided buffer option
  - Agreement on definitions and approach to extending prescriptions “up within the immediate harvest unit above the end of mapped SSBT streams along the main stem of fish-bearing streams”
  - Agreement on working definition of ‘parcel’

## To be completed

- **Work to be completed at the May Meeting:**
  - Defining well distributed throughout the RMA
  - Define/verify encumbrance and equity relief
  - Structure and general approach for Draft Rule Language

## Next Steps

- **May RAC meeting on remaining policy clarification and rule structure.**
- **June RAC Meeting to review recommendations and begin rule language and fiscal impact review**
- **July Board meeting: decision on policy clarifications**
- **September Board meeting: Proposed rule language/FIS for approval**
- **File proposed rules in September**
- **Proposed rules and FIS published in October**
- **Hearings held in November and December**

## Questions