



BEFORE THE OREGON BOARD OF FORESTRY
Statement of Mary Scurlock for the Oregon Stream Protection Coalition
Agenda Item 3: FPA Riparian Rule Review
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Chair Imeson and members of the Board, my name is Mary Scurlock, representing the 23 conservation and fishing groups of the Oregon Stream Protection Coalition.

As you are well aware, we have consistently recommended adoption of at least 100 foot no cut buffers on all fish-bearing streams in western Oregon to meet the PCW.

Today, the Board has narrowed its options to two rule packages, neither one of which we believe will provide an adequately high level of certainty that the Protecting Coldwater Criterion will be met and is in fact the “maximum practicable” stream buffer.

But having put 100-120 foot buffers aside, Option 1 (90 foot buffers with equivalent variable retention prescription on SSBT streams plus 1000 feet upstream) is the only choice on the table whose stated objective is to meet the legal duty of this Board under the Oregon Forest Practices Act. The Department’s analysis demonstrates that this option is capable of meeting the PCW on average across the landscape, a relatively low bar in our view but one that seems to comport with the Board’s “working definition” of Maximum Extent Practicable.

In contrast, Option 2 is fatally flawed for at least the following reasons:

- Its objective is simply to reduce exceedances of the PCW, not to “insure” compliance “to the maximum extent practicable which is the standard this Board is legally obligated to meet.
- The 50 and 70 foot no cut buffers, where implemented, will not be effective to meet the PCW according to the ODF analysis. (See graph below). Thus, there is no science-based rationale in the record for choosing these buffers except that they equate to the overall extent of the current Riparian Management Area and would presumably have an acceptable level of economic impact in the view of some forest landowners.

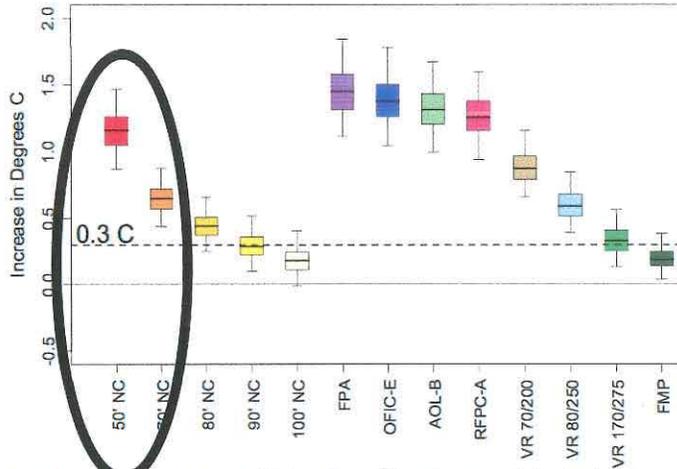


Figure 1. Mean temperature responses of 33 sites subject to different harvest prescriptions (see above for definitions). The 50, 70, 80, 90, and 100 foot NC prescriptions were subsets of the No-Cut prescription. The VR-170/275 values are specifically from the VR-170 prescription at a basal area retention value of 275 ft²/1,000 feet of stream. The responses for two-entry prescriptions RFPC-B, OFIC-C, and AOL-A are not presented as predicted temperature increases could only be determined for a single side being harvest, not the effect of the entire harvest regime.

- It fails to protect any reaches upstream of salmon, steelhead and bull trout habitat, even though this is a necessary part of the standard itself. Without these reaches, this option fails to meet the standard on this basis alone.
- It accepts a smaller buffer on small streams, although there is no distinction between small and medium streams in the analysis, and the PCW applies to these streams equally. The fact of Oregon’s outdated stream classification system does not provide a reason to continue it in this rule.
- It excludes the Siskiyou when public policy and science dictate that the new rule should apply to all streams where the PCW applies in all of Western Oregon. There is no basis to believe that current practices are not at least as inadequate in the Siskiyou as they are in Western Oregon in the body of information before you. Given that RipStream data are consistent with other studies in the region so should be the relationships these data describe between stream temperature and riparian buffer size. This conclusion is supported by EPA and DEQ testimony.

There is no real debate that larger stream buffers on private forestland will benefit native fishes

As a matter of aquatic ecology, it is beyond debate that the larger buffers needed to keep waters from heating in violation of current standards will also help salmon survive and populations to recover. The critical importance of streamside buffer protection to fish is



exactly why stronger forest practices regulations feature so prominently in both the CZARA compliance determinations and the proposed federal recovery plan for Oregon's Coast Coho, listed as threatened under the Endangered Species Act. Oregon Coast Coho have a whopping 34% of their habitat on private lands, much of it managed for timber.

There are about 9500 miles of "small and medium" fishbearing streams on private forestlands in Oregon, at least 40% of which provide habitat for salmon, steelhead and bull trout. ODF analysis demonstrates that the buffers currently required on small and medium fish streams can lead to stream heating of as on average about 2.7 degrees F (1.45 C). We have heard evidence that these increments of warming can be biologically significant at individual sites, and that the main problem addressed by compliance with the PCW is magnification at river basin scale because warming can occur on multiple harvest sites across the privately held forest landscape – almost 7 million acres in western Oregon.

The Board's duty is to the public, not to any particular economic interest

We remind the Board that this is a "policymaking" board that is accountable, through the Governor, directly to the public. Quoting from the Governor's handbook for Boards and Commissions:

"It is important to keep in mind that all members have been appointed to the board to serve the public at large. The concerns and points of view of all interested parties must be represented and considered, but ultimately, the primary responsibility of every board member is to protect the health, safety and welfare of the general public.

If you were recommended by a professional association or special interest group, you will be expected to provide the board with your technical expertise, and to bring the point of view of the group to the board. However, you were not appointed to serve only as the representative of a specific group. When the group's interest conflicts with that of the general public, your primary responsibility is to the public. All board members must work for the benefit of the public first, with the good of any particular profession, industry or special interest group taking a secondary position."¹

¹Governor Kate Brown, Membership Handbook for Boards and Commissions, revised 2/15/15.