



# **Riparian Rules/SSBT Rulemaking**

**Board of Forestry**

**07 September, 2016**

# Outline of Presentation



- **Context and Background**
- **Analysis**
  - **Status of Riparian Rule (RRAC) Advisory Committee work**
  - **RRAC report and recommendations**
  - **Rule language**
  - **Equity Recommendation**
- **Department Recommendations**
- **Next Steps**

# Context



- **Supports an effective, science-based, and adaptive FPA.**
- **Commitment to continuous learning (Value Statement 11).**
- **Values broad-based, informed public participation and consensus-based decision-making (Value Statement 10).**

# Background



- **November 2015 the Board**
  - **Adopted a final riparian prescription package for small and medium SSBT streams.**
  - **Directed the department to establish a Riparian Rulemaking Advisory Committee (RRAC).**

# Background



- **Provided an update to the Board, July 2016.**
  - RRAC Reached consensus on all topics except equity and relief.
  - Provided a brief summary of the key tradeoff in equity analysis.
- **Summarized next steps:**
  - RRAC subgroup to finalize rule language
  - RRAC final review and consensus check on rule language
  - RRAC members to discuss equity topic



## **Status of Advisory Committee Work**

- **RRAC has met six times in 2016.**
- **RRAC Subgroup on rule language met once.**
- **RRAC held final conference call / meeting to discuss report and rule language.**
- **Reached consensus on all major policy topics, except equity relief.**

# Advisory Committee Members



Name (Alternate)	Organization	Name (Alternate)	Organization
Rex Storm (Jim Giesinger)	Associated Oregon Loggers	Mary Scurlock	Oregon Stream Protection Coalition
Mike Barnes (Randy Silbernagel)	NW Regional Forest Practices Committee	Dick Courter (Rick Barnes)	Small Forestland Owner
Rod Sando	NW Sportfishing Industry Association	Randy Hereford (Paul Betts)	Industrial Forestlands Starker Forests and Miami Corp.
Gene Foster (Jennifer Wigal)	Oregon Department of Environmental Quality	Dana Kjos (Sanford Hillman)	SW Regional Forest Practices Committee
Bruce McIntosh (Jon Bowers)	Oregon Department of Fish and Wildlife	Kevin Godbout (Meghan Tuttle)	Industrial Forestlands Weyerhaeuser
Seth Barnes (Heath Curtiss)	Oregon Forest Industries Council	Bob Van Dyk	Wild Salmon Center
Jim James (Scott Hayes)	Oregon Small Woodlands Association		



## **RRAC Subgroup Work**

- **Small RRAC subgroup met in July 2016.**
- **Each member had worked in advance with other RRAC members and came prepared to offer changes.**
- **Worked to resolve concerns raised by wording and/or language construct.**
- **The subgroup reached a consensus on proposed rule language.**

# **RRAC Report and Recommendations**



- **RRAC held final conference call / meeting in August 2016.**
- **Final Consensus Check – Facilitator’s Summary Report**
- **All RRAC members present, approved the Facilitator’s report as final.**

# RRAC Report and Recommendations



- The department clarified key aspects of “All Other Rules Apply” decisions that were incorporated in the rule language.
- The RRAC reviewed the proposed rule language for Divisions 600, 635 and 642.
- The department reviewed the final comments received and explained how they would be addressed in rule language.



# **RRAC Review and Recommendations**

- **Final Review Draft Rule Language – Division 600**
  - **No Comments**
- **Final Review Draft Rule Language – Division 635**
  - **Revision of SSBT Database**
  - **Address requests for field based SSBT surveys**
  - **Natural Barrier Criteria**
  - **Habitat vs. Field Based SSBT surveys**
  - **Human Made Barriers**



# RRAC Review and Recommendations

- **Final Review Draft Rule Language – Division 642**
  - General Prescription Language
  - SSBT Prescription #2
  - Alternate Prescriptions
- **Consensus check on rule language**
  - CONSENSUS:** The RRAC agreed with consensus on the proposed rule language (excluding the equity relief section) and the department’s proposed modifications (all 2, 3, and 4s).



# RRAC Summary

- **The RRAC met five times and spent more than 35 hours together.**
- **Board should appreciate the commitment each RRAC member made—and kept—in order to work collaboratively toward the development of consensus-based recommendations for the Board to consider.**



# Questions

# Equity and Relief



- **Generally agreed that the Board intended to provide relief to some landowners**
- **Different perspectives**
  - **Encumbrance Threshold that triggers relief,**
  - **Relief vs. SSBT streams with reduced protection, and**
  - **what constitutes appropriate relief**
- **RRAC members met to discuss equity; did not reach consensus, but narrowed the decision space.**

## Summary of Analysis



- **The four regions contain 5.8 million acres, in 73,963 parcels, with 66,892 owners.**
- **3.4 million acres, in 7,885 parcels (11 %), with 6,850 owners are affected by the rule.**
- **The 7,885 parcels contain 2,355 miles of small and medium SSBT streams.**
- **The average encumbrance per acre is 0.5 percent.**

# Summary of Analysis



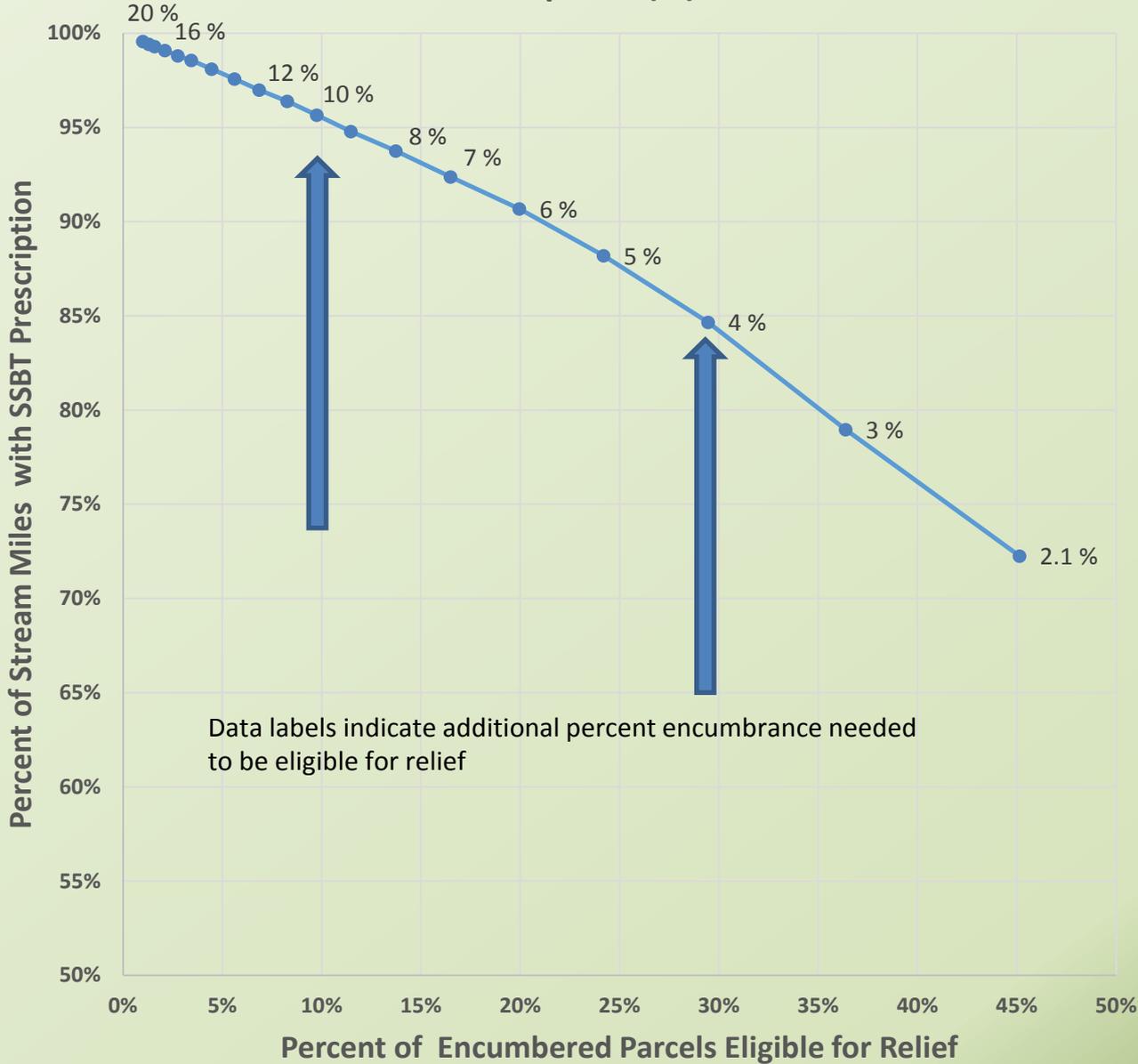
- **Key tradeoff: acres eligible for relief and the of SSBT stream length contained in those acres.**
- **3.1 million acres or 90 percent of encumbered acres (less than 1.0 percent encumbrance) only contain 53 percent of SSBT streams.**
- **The upper ten (10) percent of encumbered acres (encumbrance greater than 1.0 percent) contain 47 percent of SSBT streams.**
- **The upper three (3) percent of encumbered acres (encumbrance greater than 2.2 percent) contain 27 percent of streams.**

# Summary of Analysis



- **Discussion with RRAC members narrowed the decision space on the eligibility threshold to between 4.0 and 10.0 percent additional encumbrance.**
- **At a 4.0 percent, 2,323 parcels or 29 percent of encumbered parcels would be eligible for relief; these parcels contain 361 miles or 15 percent of SSBT streams.**
- **At a 10.0 percent, 760 parcels or 10 percent of encumbered parcels would be eligible for relief; these parcels contain 102 miles or 4 percent of SSBT streams.**

# Parcels Eligible for Relief v. Stream miles with SSBT Prescription (%)



## Tradeoff Curve

Data labels indicate additional percent encumbrance needed to be eligible for relief

# Parcels and Stream Miles

Parcel Size (Acres)	Additional Encumbrance							Total # of Parcels
	4-5%	5-6%	6-7%	7-8%	8-9%	9-10%	>10%	
2-10	160	143	150	122	120	99	665	1,459
10-20	80	68	66	52	32	18	73	389
20-50	104	92	43	40	24	16	30	349
50-100	52	26	12	2	2	3	1	98
100-500	19	5	2	2	0	0	0	28
500-5000	0	0	0	0	0	0	0	0
>5000	0	0	0	0	0	0	0	0
<b>Total # Parcels</b>	<b>415</b>	<b>334</b>	<b>273</b>	<b>218</b>	<b>178</b>	<b>136</b>	<b>769</b>	<b>2,323</b>
<b>percent of parcels eligible for relief prescription</b>	<b>2,323</b>	<b>1,908</b>	<b>1,574</b>	<b>1,301</b>	<b>1,083</b>	<b>905</b>	<b>769</b>	<b>Total Encum. Parcels</b>
	29%	24%	20%	16%	14%	11%	10%	<b>7,885</b>

Parcel Size (Acres)	Additional Encumbrance							Total Miles
	4-5%	5-6%	6-7%	7-8%	8-9%	9-10%	>10%	
2-10	6	6	8	7	8	7	66	108
10-20	8	9	9	9	6	4	19	64
20-50	25	24	13	13	9	6	16	106
50-100	24	14	8	1	1	3	1	53
100-500	21	5	2	3	0	0	0	31
500-5000	0	0	0	0	0	0	0	0
>5000	0	0	0	0	0	0	0	0
<b>Total Miles</b>	<b>83</b>	<b>59</b>	<b>40</b>	<b>33</b>	<b>24</b>	<b>20</b>	<b>102</b>	<b>361</b>
<b>Cumulative miles and percent of streams with relief prescription</b>	<b>361</b>	<b>278</b>	<b>219</b>	<b>179</b>	<b>147</b>	<b>122</b>	<b>102</b>	<b>Total Stream Miles</b>
	15%	12%	9%	8%	6%	5%	4%	<b>2,355</b>

# Options for Relief



- **Two options for relief:**
  - **Option 1: 50-foot no cut buffer on small streams, 70-foot no cut buffer on medium streams.**
  - **Option 2: allow a 10-foot reduction in the riparian management area for both the no cut prescription and variable retention prescription.**
- **Option 1 would provide relief for those eligible owners who passively manage their riparian management areas, but not to those who actively manage.**
- **Option 2 would provide relief for both type of management choices.**

# ODF Equity Recommendations



- **Adopt a level of 8% additional encumbrance as the level that sets eligibility for relief.**
- **Define relief as the reduction of the width of the riparian management area by 10 feet for Prescriptions 1 and 2, with the basal area and conifer tree targets adjusted to maintain the same per acre targets.**



# Questions



## **ODF Recommendations**

- **The Department recommends that the Board Adopt:**
  - The Committee consensus policy recommendations (Attachment 1);**
  - The policy clarifications on all other rules apply (Attachment 2);**
  - and Department recommendations on equity and relief (Attachment 3)**

# ODF Recommendations



- **The Department recommends that the Board Accept:**
  - **Riparian Rulemaking Advisory Committee Report to the BOF (Attachment 4)**

# ODF Recommendations



- **The Department recommends that the Board Direct:**
  - **The Department to move forward with formal administrative rule making for the SSBT rules (Attachments 7 and 8)**

## Next Steps



- **File Notice of proposed rulemaking with Secretary of State – 9/14/16**
- **Proposed rules and fiscal impact published in Oregon Bulletin – 10/3/16**
- **Public Hearings held in November and December.**
- **Public Comment period ends 3/1/16**
- **Committee to review public comments, fiscal impact and proposed final rules.**
- **Recommend Board approval of final economic analysis and permanent rules - 4/2017**
- **Rules Effective – 7/1/17**



**Thank You**