



# Associated Oregon Loggers, Inc.

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## Effective Implementation of Forest Practices Act -- Water Protection Rule Concepts #3 & #4

Testimony by Rex Storm, Certified Forester  
Forest Policy Manager, Associated Oregon Loggers, Inc.  
before the Oregon Board of Forestry  
September 5, 2007

Chairman Hobbs and Board members, my name is Rex Storm, Forest Policy Manager for Associated Oregon Loggers (AOL). I make these comments on behalf of more than 1,000 member companies of AOL, representing logging and allied forest management businesses working across Oregon—typically referred to as forest practices “operators.” AOL and our member companies share the Board’s goal of assuring that the Riparian Rules, under Oregon’s Forest Practices Act (FPA), provide sufficient water & fish protection, and accomplish this at the least impact to operators and landowners. We remain optimistic that ODF staff will continue their efforts to consider least-cost riparian rule improvements that benefit the environment.

We commend ODF Private Forest Program staff (PFP) for their thorough efforts in recent years to consider riparian rule improvements. Staff has worked diligently to translate the issues into rule concepts, while emphasizing a rule atmosphere that encourages willing owner and operator participation, as well as seeking voluntary measures rather than additional rules. However, we continue to have reservations about the proposed October 1<sup>st</sup> implementation of Rule Concepts 3 & 4—and we seek further assurances that rule guidance flexibility and PFP staff will adequately support such additional rule complexity. In saying this, it’s unlikely that in the future we would support added rule complexity under the current unwillingness of the Legislature/Governor to support PFP funding.

Last September 2006, the Board approved two stream rules to become effective on October 1, 2007.

- Rule Concept 3: Riparian Management Areas above Fish Barriers
- Rule Concept 4: Wood from Debris Flows and Landslides

Rule implementation was contingent upon resolving problems regarding workload—given budget/staff reductions in the Private Forests Program and upon developing the necessary rule guidance and stakeholder education to support rule implementation.

AOL has participated with PFP staff concerning these concepts throughout their development—submitted written comments—and we have expressed our reservations about the costs of additional rule complexity. We have also previously testified before the Board on April 16, 2006 about our concerns surrounding the impact of added rule burdens. Although PFP staff have addressed many of our earlier concerns, we continue to have reservations about the proposed October 1<sup>st</sup> implementation of Rule Concepts 3 & 4. Our concerns about rule implementation are:

1. The effect on services within the Department would shift resources away from vitally-important discretionary tasks, such as: operation inspections, education, and assistance to administering this non-discretionary rule. These added rules would burden both PFP staff, private landowners, and operators with greater workload. The cumulative workload for the two new rules is estimated at 4 FTE for ODF, and 4 FTE for private landowners.

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2. The '07 Legislature only partially-funded restoration of essential baseline level for the PFP—funding seven of fourteen requested positions; and 53% of the requested baseline budget. Implementing these rules would equate to an “unfunded mandate”, which ultimately results in less stewardship forester availability to address each notification, operation, operator, and each rule. However, we do applaud PFP staff plans to restore the Stewardship Training Coordinator position—which is essential to operator, landowner, and ODF forester education programs.
3. Additional unfunded workload has been created by actions of the '07 Legislature—and direction of the Governor—for issues raised during the session (i.e., pesticide use). Furthermore, the future implication of Ballot Measure 49 referral and BM 37 claims still loom. Implementation of new rules carries added risk of being compounded by pending future PFP workload burdens.
4. Further PFP complexity—in the face of insufficient PFP forester support—threatens to erode the important stewardship cooperation by the regulated landowners and operators. An essential tenet of successful forest resource protection in Oregon forests is the cooperation by the regulated community to willingly protect resources during operations. This ‘cooperative stewardship’ occurs largely due to a framework of relationships and working customs that engage the regulated community in *both* development *and* implementation of effective rules and voluntary measures. Good stewardship comes from the diligent attention of landowners, operators, and state foresters—all working together to do the right things. We encourage ODF to resist external pressures & politics to further ratchet-up stream and water protection rules; because such a temptation would jeopardize the existing success of Oregon’s forest practices program. Through our mutual efforts, we urge you to continue ODF’s pursuit toward the ideal of ‘cooperative stewardship’, where operational effectiveness and least cost to the operator and landowner are primary priorities. As written, the proposed rule/guidance erodes cooperation.
5. We are encouraged by the PFP staff to ease the proposed implementation of the rules. The PFP should conduct a survey of stewardship foresters and operators in April 2008 about implementation progress, and report survey results to the Board on June '08. If the PFP has not adequately prepared operators, landowners, and stewardship foresters for the landslides rule concept #4 by Oct. 1, we are hopeful that ODF would not direct landowners to leave trees pursuant to the rule. These rules should not apply to notifications filed before the date rules are implemented.

Thank you for this opportunity to comment before you concerning the proposed stream rule implementation. We look forward to working with the Department during future deliberations surrounding active riparian management.