

**SITE SPECIFIC VEGETATION RETENTION PRESCRIPTIONS FOR STREAMS AND RIPARIAN MANAGEMENT AREAS****OAR 629-640-400**

- (1) (a) *Operators are encouraged to develop site specific vegetation retention prescriptions in an alternate plan.*
- (b) *A primary aim of these prescriptions is to identify opportunities and allow incentives for restoring or enhancing riparian management areas or streams.*
- (c) *Another purpose of site specific vegetation retention prescriptions is to allow for changes to the vegetation retention requirements in OARs 629-640-100 and 629-640-200. The changes must provide for the functions and values of streams and their riparian management areas as described in the vegetation retention goals for streams while affording a better opportunity to meet other objectives.*

**RULE COMPLIANCE:**

This section is not subject to enforcement action. Enforcement of violations of alternate plans used to implement site specific prescriptions would occur through OAR 629-605-170(5) (and not 629-635-130(5)).

**ADMINISTRATION AND IMPLEMENTATION:**

Operators always have the option of developing site specific plans for vegetation retention within an RMA. While OAR 629-640-100(6)(c)(A) and 629-640-200(7)(c)(A) state that the site specific prescription is an option when the RMA live conifer basal area is less than half the standard target, use of site specific plans is not limited to this situation. The site specific prescription may be applied in **any** situation where purposes and conditions in OAR 629-640-400(2) through (3) are met.

Site specific plans are often highly desirable. Since site specific plans are based upon a detailed evaluation of the site they can produce the desired future condition more effectively than the generic general prescription. Site specific plans can be used to propose incentives for stream or riparian area restoration or enhancement. Thus, FPFs and ODFW biologists should **encourage** operators to develop site specific plans when: (1) the opportunity exists to obtain desired future conditions in a more timely manner than could be accomplished by using the general prescriptions; and/or (2) the development of incentives is needed to support restoration or enhancement work. To accomplish these objectives it is important to work with ODFW biologists to identify the potential opportunities.

The incentives that can be developed are not limited by the active management targets. The open-ended nature of this option is to allow maximum flexibility to create needed incentives and to be innovative. However, in creating and applying incentives, consideration must be given to the protection goals (water quality, fish and wildlife habitat) and the benefit of providing the incentive must outweigh any adverse impacts to the protection goals.

**In developing site specific plans it is important to maintain the objective of meeting the desired future condition in a timely manner.** In the event the timeliness of achieving the

desired future condition is reduced to provide incentives, the site specific plan needs to explain the benefits of the incentive and why it is worth modifying the achievement of the desired future condition.

With regard to subsection (c), the basal area targets were developed based upon average conditions for each geographic region. In most cases, the basal area targets can be met or exceeded within the range of environmental conditions found within RMAs. Nonetheless, it is anticipated that in some situations, such as the transition zone from mixed forest/grasslands to pure grasslands, the capability of the riparian area to produce trees is limited. In these situations, subsection (c) can be used to develop alternative basal area and tree retention standards. While still meeting the definition of mature forest conditions, these alternate standards will be more appropriate to the site and better reflect other management objectives (grazing) for such lands. In such situations, alternatives should be developed in consultation with forest practices Salem staff.

Subsection (c) also provides a basis for adjusting the vegetation retention standards to balance other management objectives as described in subsections (2)(b) and (c) below. In any case, application of subsection (c) must be designed to meet the desired future condition and the overall vegetation retention goals based upon the unique productivity of the site.

#### **RELATED RULES AND STATUTES:**

- OAR 629-605-170(5) Written plans
- OAR 629-635-130 Written plans for streams, lakes, wetlands and riparian management areas
- OAR 629-640-100(6)(c)(A) General vegetation prescription for Type F streams
- OAR 629-640-100(7)(c)(A) General vegetation prescription for Type F streams

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- (2) *Operators may develop site specific vegetation retention prescriptions for streams and their riparian management areas to achieve the vegetation retention goals described in OAR 629-640-000 if:*
- (a) *The potential of the streamside stand to achieve basal area and stand density similar to mature conifer forest stands in a "timely manner" is questionable; or*
  - (b) *In-stream conditions are impaired due to inadequate large woody debris or other factors; or*
  - (c) *The modification of a standard or practice would result in less environmental damage than if the standard or practice were applied.*

**RULE COMPLIANCE:**

This section is not subject to enforcement action.

**ADMINISTRATION AND IMPLEMENTATION:**

Any one of the three conditions listed in this section can be used as a basis for developing a site specific plan.

In applying subsection (a), the potential of the streamside stand to achieve "mature forest condition" may be "questionable" due to either existing stand condition (e.g.; hardwood stand on conifer site or insect damage) or to the potential of the site to produce a stand. The phrase "timely manner" used in subsection (a) is defined in 629-640-000(9).

Some examples of situations anticipated by subsection (a) are:

- (a) Alternative placement of the hardwood conversion boundary to better follow topographic features and/or delineate between hardwood and conifer site (such as the break between floodplain and terrace); and
- (b) Commercially thin (from below) overstocked trees in the first 20 feet of the RMA to promote more rapid achievement of the desired future condition; and evaluation indicates that shade would not be substantially affected.

As noted in the guidance for section (1) above, the basal area targets were developed based upon average conditions for each geographic region. It is anticipated that in some situations, such as the transition zone from mixed forest/grasslands to pure grasslands, the capability of the riparian area to produce trees is limited. Such situations can be addressed through subsection (a) by appropriately adjusting the basal area and tree retention standards to more appropriately reflect "mature forest conditions" on the specific site. In these situations, the process used to calculate the basal area targets described in "The Oregon Forest Practices Act Water Protection Rules; Scientific and Policy Considerations" should be used in consultation with Salem forest practices staff to develop a site specific plan. **[REVISED 12-98—replaced "baal"]**

*with "basal" in the sentence beginning "Such situations . . . ]*

Subsection (b) allows site specific prescriptions to be developed if there are impaired stream conditions. While the rule gives an example of "inadequate large woody debris", other impairments such as fish passage, lack of side channel connection, channelization, etc., are to be considered. Plans to modify the retention standards to improve these conditions should be approved if the long-term benefits outweigh the short-term detrimental impacts (to either the protection standards or achievement of the desired future condition). An example of a situation appropriately addressed under subsection (b) is:

Replacement of an old culvert that is impassable to fish would have great benefit for coho salmon in creating access to several miles of stream. However, the development of an incentive is needed to encourage the landowner to replace the culvert ahead of normal replacement schedule.

To ensure consistency with OAR 629-605-100(2)(c), ODFW should normally be consulted during the review of plans submitted under subsection (b). The value of the proposed incentive must be established on a case by case basis in consultation with ODFW. The value will mostly be based upon the importance of the enhancement or restoration.

Modifications proposed under subsection (c) should first consider how to adjust the physical arrangement of the required retained vegetation to offset potential negative consequences prior to reducing the actual basal area. (Can the operator widen the RMA elsewhere in the operation while still meeting the basal area requirements?) Plans proposing to modify standards necessary to avoid additional road building should receive strong consideration.

#### **RELATED RULES AND STATUTES:**

- OAR 629-640-000(9) Vegetation retention goals for streams: desired future conditions

#### **REFERENCES:**

- *The Oregon Forest Practices Act Water Protection Rules; Scientific and Policy Considerations*, Forest Practices Policy Unit, Oregon Department of Forestry, December, 1994

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- (3) *A site specific vegetation retention prescription shall be approved if the State Forester determines that when properly executed the alternate plan will have no significant or permanent adverse effects: and*
- (a) *It will meet or exceed the vegetation retention goals in a more "timely manner" than if the plan were not implemented; or*
  - (b) *The long-term benefits of the proposed restoration practice are greater than short-term detrimental effects; or*
  - (c) *The proposed practice will result in less environmental damage than if the regular rules were followed.*

**RULE COMPLIANCE:**

This section is not subject to enforcement action.

**ADMINISTRATION AND IMPLEMENTATION:**

The phrase "timely manner" used in subsection(c) is defined in 629-640-000(9).

In addition to determining that the site specific plan will have no significant or permanent adverse effects, approval of a site specific plan requires the FPF to determine that one of the three conditions established in subsections (a), (b), or (c) exists. The FPF should work with the operator to ensure that the written plan and any site assessment work provide an adequate basis to support the approval of the plan.

With regard to subsection (a), the written plan will need to describe how the prescription will meet or exceed the achievement of the vegetation retention goals in a more timely manner than the general prescription.

For subsection (b), the written plan will need to establish the positive benefits of the proposed alternative practices when balanced against detrimental effects.

For subsection(c), the written plan will need to explain how the proposed practice will result in overall more positive results than if the general prescription is applied.

ODFW should usually be consulted if subsection (b) is applicable.

**RELATED RULES AND STATUTES:**

- OAR 629-640-000(9) Vegetation retention goals for streams: desired future conditions

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- (4) *Factors that may need to be considered in the plan include, but are not limited to, the potential of the existing streamside stand to achieve mature conifer forest characteristics, the long-term supply of woody debris, survival of planted conifers,*

*sensitivity to changes in water temperature and water quality, the potential for sedimentation, the stability of woody debris placed in aquatic areas, and monitoring the direct effects of the proposed practices.*

### **RULE COMPLIANCE:**

This section is not subject to enforcement action. **The written plan is the only enforcement mechanism for site specific approaches.** Enforcement action for failure to follow the written plan should be taken under OAR 629-605-170(5) (and not 629-635-130(5)).

### **ADMINISTRATION AND IMPLEMENTATION:**

Site specific prescriptions will demand scrutiny of the site conditions prior to development of the approaches that may be unique to that site. Site assessment is part of site specific planning. The importance and extent of site assessment will depend upon the reasons for proposing the plan. To the extent possible, the FPF should inform the operator of the factors that will need to be addressed in the plan.

**Note: The written plan is the only enforcement mechanism for site specific approaches. FPFs should hold operators to high standards in written plans for site specific approaches; clear, enforceable statements of where, why, how and when work will be conducted are necessary.**

In general, written plans for site specific prescriptions should include:

- Objectives of the operation. Describe the stand management objectives and the short and long range objectives for water quality, aquatic habitat, and fish and wildlife.
- A description of the existing stream conditions and vegetative conditions present in RMAs. This may include an assessment of stream conditions above and below the operation site if relevant. Also, a description of the factors which indicate that the site is a conifer site may also be required.
- A detailed description including **dates and deadlines** of what will be done on the ground. In general for cases where an incentive is being created, the plan should require when possible that the work receiving the incentive be completed ahead of, or concurrent with, receipt of the incentive.
- An evaluation of the potential short and long term impacts from the operation to water quality, and fish and wildlife resources. This should include enough information to demonstrate that any changes to the vegetation retention standards will be offset by the positive consequences of the modification.
- If practices are proposed which are experimental or for other reasons may result in uncertain effects, short or long term monitoring of affected resources may be required.

In those situations where a site specific plan is being developed to create incentives for restoration work, in particular where ODF or ODFW has encouraged development of the plan, ODFW should assist the operator in the development of the plan. It is important that written plans be adequately developed to provide the basis for ODF to approve the plan.

**RELATED RULES AND STATUTES:**

- OAR 629-605-170(5) Written plans
- OAR 629-635-130 Written plans for streams, lakes, and riparian management areas

***REFORESTATION WITHIN STREAM RIPARIAN MANAGEMENT AREAS***  
***OAR 629-640-500***

*Harvested portions of riparian management areas along streams are subject to the same reforestation requirements that apply to adjacent areas outside of the riparian management areas. Reforestation is more difficult in riparian management areas due to a number of factors. To succeed with the required reforestation, landowners should anticipate and plan for such factors as brush control measures, animal damage problems, and tree species that are suitable for wetter sites.*

**RULE GUIDANCE:**

This rule is not subject to enforcement action. Enforcement actions for noncompliance with reforestation standards will be accomplished under the reforestation rules (OAR 629-610-020(9)).

**ADMINISTRATION AND IMPLEMENTATION:**

Adequate reforestation of riparian management areas after harvesting is an important step in providing for the stream protection rules' desired future conditions. Landowners may not "write off" difficult reforestation in RMAs, intentionally using the RMA as the portion of the larger operation area where seedling stocking may be below the reforestation standard. When determining reforestation compliance, RMAs will be considered separately from stocking in the rest of the operation area.

**RELATED RULES AND STATUTES:**

- OAR 629-610-020(9) Reforestation stocking standards