WASHINGTON STATE DEPARTMENT OF
Natural Resources

PETER GOLDMARK
Commissioner of Public Lands

January 29, 2014

MEMORANDUM

TO: Forest Practices Board

FROM: Gretchen Robinson, Environmental Planner
Forest Practices Division

SUBJECT: Rulemaking Regarding Road Maintenance

On February 11th I will request the Board's approval to file a CR-101 *Pre-proposal Statement of Inquiry* for rulemaking regarding road maintenance and planning. This is the first of three rulemaking steps required in the Administrative Procedure Act (chapter 34.05 RCW). The information provided on a CR-101 states the subject of rulemaking and provides contact information for people who would like to participate in rule development.

As Road Maintenance and Abandonment Plans (RMAPs) are being completed and the work deadlines met, the Department of Natural Resources (DNR) is considering ways to ensure appropriate responses to road maintenance into the future. DNR would like the Board to consider adding language to chapter 222-24 WAC. The language would indicate that when DNR becomes aware that the general maintenance level of roads within a given road system or basin are, or will soon be, inadequate to protect public resources, DNR can require landowners to prepare focused road maintenance plans. These would be short-term plans for specific areas to bring the roads to forest practices standards.

Language to this effect existed in WAC 222-24-050 prior to the Board adopting the 2001 "Forests and Fish" rule package. It authorized DNR to require RMAPs for the specific drainages or road systems having potential to damage public resources; if DNR determined further maintenance was necessary to protect resources, the landowner would implement needed improvements or agree to an additional road maintenance plan. DNR is looking at restoring that concept into the road maintenance rules.

Although rules already exist that address ongoing road maintenance requirements outside of fulfilling RMAPs requirements (specifically WAC 222-24-010(2) – roads policy, WAC 222-24-051(12) – large forest landowners, and WAC 222-24-0511(4) – small forest landowners), they do not provide for the possibility of agreed-to plans. DNR acknowledges that most landowners maintain their roads on a continual basis to prevent public resource damage. However, in some situations (unusual weather events, for example, or acquisition of land not covered by an RMAP), success may be achieved more satisfactorily through a targeted planning schedule than under punitive enforcement mechanisms.

If the Board approves, we will enlist the help of stakeholders, and any interested parties who respond to the CR-101, to determine how best to achieve rule clarity on this subject. We expect the rule development process to take place in the spring, and to have a draft ready to send to the Board prior to the August 2014 meeting for further action. We look forward to answering your questions on February 11th.

GR/

1111 WASHINGTON ST SE • MS 47001 • OLYMPIA, WA 98504-7001
TEL: (360) 902-1000 • FAX: (360) 902-1775 • TRS: 711 • TTY: (360) 902-1125 • WWW.DNR.WA.GOV
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