



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Forest Practices Board

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) October 3, 2011 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** To amend WACs 222-24-050 and 222-24-051 to give forest landowners the opportunity to extend the performance period for road maintenance and abandonment plans (RMAPs) up to five years, until 2021. RMAPs are forest landowner plans that specify and schedule the work necessary to improve and maintain forest roads to standards detailed in chapter 222-24 WAC and prevent damage to public resources.

**Citation of existing rules affected by this order:**

Repealed:

Amended: 222-24-050, 222-24-051

Suspended:

**Statutory authority for adoption:** 76.09.040

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 11-11-048 on May 13, 2011

Describe any changes other than editing from proposed to adopted version: One additional change was made to amend the completion date and extension date from July 1 to October 31. This will provide landowners an entire operating season.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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**Date adopted:** August 9, 2011

**NAME (TYPE OR PRINT)**

Bridget Moran

**SIGNATURE**

**TITLE**

Chair

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: August 22, 2011**

**TIME: 11:23 AM**

**WSR 11-17-097**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	<u>2</u>	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	<u>2</u>	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 06-11-112, filed 5/18/06, effective 6/18/06)

**WAC 222-24-050 \*Road maintenance and abandonment.** The goals for road maintenance are established in WAC 222-24-010. Guidelines for how to meet these goals and standards are in ~~((the))~~ board manual section 3. Replacement will not be required for existing culverts functioning with little risk to public resources or for culverts installed under an approved forest practices application or notification and are capable of passing fish, until the end of the culvert's functional life.

The goals for road maintenance outlined in this chapter are expected to be achieved by ~~((July 1))~~ October 31, 2016. The strategies for achieving the goals are different for large forest landowners and small forest landowners.

For large forest landowners, all forest roads must be improved and maintained to the standards of this chapter prior to ~~((July 1))~~ October 31, 2016; however, large or small forest landowners may request an extension of up to five years, or October 31, 2021, as outlined in WAC 222-24-051(8). Work performed toward meeting the standards must generally be even flow over the ~~((fifteen-year))~~ performance period with priorities for achieving the most benefit to the public resources early in the period. These goals will be achieved through the road maintenance and abandonment plan process outlined in WAC ~~((22-24-051 [222-24-051]))~~ 222-24-051.

For small forest landowners, the goals will be achieved through the road maintenance and abandonment plan process outlined in WAC 222-24-0511, by participation in the state-led family forest fish passage program, and by compliance with the Forest Practices Act and rules. The purpose of the family forest fish passage program is to assist small forest landowners in providing fish passage by offering cost-share funding and prioritizing projects on a watershed basis, fixing the worst fish passage barriers first. The department, in consultation with the departments of ecology and fish and wildlife, will monitor the extent, effectiveness, and progress of checklist road maintenance and abandonment plan implementation and report to the legislature and the board by December 31, 2008, and December 31, 2013.

AMENDATORY SECTION (Amending WSR 06-11-112, filed 5/18/06, effective 6/18/06)

**WAC 222-24-051 \*Large forest landowner road maintenance**

**schedule.** All forest roads must be included in an approved road maintenance and abandonment plan by July 1, 2006. This includes all roads that were constructed or used for forest practices after 1974. Inventory and assessment of orphan roads must be included in the road maintenance and abandonment plans as specified in WAC 222-24-052(4).

\*(1) Landowners must maintain a schedule of submitting plans to the department that cover 20% of their roads or land base each year.

\*(2) For those portions of their ownership that fall within a watershed administrative unit covered by an approved watershed analysis plan, chapter 222-22 WAC, landowners may follow the watershed administrative unit-road maintenance plan, providing the roads they own are covered by the plan. A proposal to update the road plan to meet the current road maintenance standards must be submitted to the department for review on or before the next scheduled road maintenance plan review. If annual reviews are not required as part of the watershed analysis road plan, the plan must be updated by October 1, 2005. All roads in the planning area must be in compliance with the current rules by (~~July 1~~) October 31, 2016 or by the extension deadline approved by the department under subsection (8) of this section.

\*(3) Plans will be submitted by landowners on a priority basis. Road systems or drainages in which improvement, abandonment or maintenance have the highest potential benefits to the public resource are the highest priority. Based upon a "worst first" principle, work on roads that affect the following are presumed to be the highest priority:

(a) Basins containing, or road systems potentially affecting, waters which either contain a listed threatened or endangered fish species under the federal or state law or a water body listed on the current 303(d) water quality impaired list for road related issues.

(b) Basins containing, or road systems potentially affecting, sensitive geology/soils areas with a history of slope failures.

(c) Road systems or basins where other restoration projects are in progress or may be planned coincident to the implementation of the proposed road plan.

(d) Road systems or basins likely to have the highest use in connection with future forest practices.

\*(4) Based upon a "worst first" principle, road maintenance and abandonment plans must pay particular attention to:

(a) Roads with fish passage barriers;

(b) Roads that deliver sediment to typed water;

(c) Roads with evidence of existing or potential instability that could adversely affect public resources;

(d) Roads or ditchlines that intercept groundwater; and

(e) Roads or ditches that deliver surface water to any typed waters.

\*(5) Road maintenance and abandonment plans must include:

(a) Ownership maps showing all forest roads, including orphan roads; planned and potential abandonment, all typed water, Type A and B Wetlands that are adjacent to or crossed by roads, stream

adjacent parallel roads and an inventory of the existing condition;  
and

(b) Detailed description of the first years work with a schedule to complete the entire plan within (~~fifteen years~~) the performance period; and

(c) Standard practices for routine road maintenance; and

(d) Storm maintenance strategy that includes prestorm planning, emergency maintenance and post storm recovery; and

(e) Inventory and assessment of the risk to public resources or public safety of orphaned roads; and

(f) The landowner or landowner representative's signature.

\* (6) Priorities for road maintenance work within plans are:

(a) Removing fish passage barriers beginning on roads affecting the most habitat first, generally starting at the bottom of the basin and working upstream;

(b) Preventing or limiting sediment delivery (areas where sediment delivery or mass wasting will most likely affect bull trout habitat will be given the highest priority);

(c) Correcting drainage or unstable sidecast in areas where mass wasting could deliver to public resources or threaten public safety;

(d) Disconnecting road drainage from typed waters;

(e) Repairing or maintaining stream-adjacent parallel roads with an emphasis on minimizing or eliminating water and sediment delivery;

(f) Improving hydrologic connectivity by minimizing the interruption of surface water drainage, interception of subsurface water, and pirating of water from one basin to another; and

(g) Repair or maintenance work which can be undertaken with the maximum operational efficiency.

\* (7) Initial plans must be submitted to the department during the year 2001 as scheduled by the department.

\* (8) Requests to extend the completion date of road maintenance and abandonment plans may lead to the reapproval of the road maintenance and abandonment plan for up to five years, or October 31, 2021.

(a) Landowner requests must be made at least one hundred twenty days prior to the plan's anniversary date of 2014 and must include:

(i) The length of time for the extension period; and

(ii) A revised road maintenance and abandonment plan according to subsections (3) through (6) of this section.

(b) The department shall provide forty-five days for the departments of ecology and fish and wildlife, affected tribes, and interested parties to review a revised road maintenance and abandonment plan.

(c) The approval or a denial of a road maintenance and abandonment plan's extension request will occur at least thirty days prior to the anniversary date of the initial plan's submittal.

(d) A landowner with an approved extension and revised road maintenance and abandonment plan must report work accomplished in accordance with subsection (9) of this section.

\* (9) Each year on the anniversary date of the plan's

submittal, landowners must report work accomplished for the previous year and submit to the department a detailed description of the upcoming year's work including modifications to the existing work schedule.

The department's review and approval will be conducted in consultation with the departments of ecology (~~(, the department of)~~) and fish and wildlife, affected tribes, and interested parties. The department will:

(a) Review the progress of the plans annually with the landowner to determine if the plan is being implemented as approved; and

(b) The plan will be reviewed by the department and approved or returned to the applicant with concerns that need to be addressed within forty-five days of the plan's submittal.

(c) Additional plans will be signed by the landowner or the landowner's representative.

\*~~((+9))~~ (10) The department shall require the use of standardized forms as referenced in board manual section 3 for landowners requesting extensions under subsection (8) of this section and for annual reporting under subsection (9) of this section.

(11) The department will facilitate an annual water resource inventory area (WRIA) meeting with landowners, the departments of fish and wildlife (~~(, the department of)~~) and ecology, affected tribes, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, affected counties, local U.S. Forest Service, watershed councils, and other interested parties. The purpose of the meeting is to:

(a) Suggest priorities for road maintenance and abandonment planning; and

(b) Exchange information on road maintenance and stream restoration projects.

\*~~((+10))~~ (12) Regardless of the schedule for plan development, roads that are currently used or proposed to be used for timber hauling must be maintained in a condition that prevents potential or actual damage to public resources. If the department determines that log haul on such a road will cause or has the potential to cause material damage to a public resource, the department may require the applicant to submit a plan to address specific issues or segments on the haul route.

\*~~((+11))~~ (13) If a landowner is found to be out of compliance with the work schedule of an approved road maintenance and abandonment plan and the department determines that this work is necessary to prevent potential or actual damage to public resources, then the department will exercise its authority under WAC 222-46-030 (notice to comply) and WAC 222-46-040 (stop work order) to restrict use of the affected road segment.

(a) The landowner may submit a revised maintenance plan for maintenance and abandonment and request permission to use the road for log haul.

(b) The department must approve use of the road if the revised maintenance plan provides protection of the public resource and maintains the overall schedule of maintenance of the road system or

basin.

\*~~((12))~~ (14) If a landowner is notified by the department that their road(s) has the potential to damage public resources, the landowner must, within 90 days, submit to the department for review and approval a plan or plans for those drainages or road systems within the area identified by the department.

\*(15) The department will notify the departments of ecology and fish and wildlife, affected tribes, and interested parties if actions taken under this section result in a change to an approved road maintenance and abandonment plan.

(16) When the department approves or denies a road maintenance and abandonment plan extension under subsection (8) of this section, that decision may be appealed to the appeals board in accordance with RCW 43.21B.110 and 43.21B.230.