

Road Rules Committee

Executive Summary Outline

March 5, 2008

Background

- Logging roads and logging road watercourse crossings have long been recognized as being the principal source of sediment that is delivered to watercourses (McCashion and Rice, 1983; Cafferata and Munn, 2002; Brando and others, 2006).

Background continued

- Rules that regulate the planning, construction, use, maintenance, and removal of logging roads and logging road watercourse crossings are present throughout the Forest Practice Rules (FPRs), making it difficult for Registered Professional Foresters (RPFs), review team agencies, and the public to understand what is required to allow for timberland management in a manner that provides an adequate level of protection to the environment and to the beneficial uses of water.

Background continued

- In 1999, the North Coast Regional Water Quality Control Board presented a package of recommended changes to the FPRs, including suggestions for changing rules related to roads. Part of this package became what is referred to as the Threatened or Impaired interim rules. The chairman of the Board of Forestry's *Ad Hoc* Committee (later renamed the Road and Watershed Management Committee, and ultimately reorganized into the Forest Practice Committee) assigned an Inter-agency Road Task Force with the task of revising the FPRs related to roads.

Background Continued

- The task force submitted their package to the Committee in April of 2003. During following Committee meetings it became clear that the package included recommendations for rule changes that are not related to logging roads and logging road crossings, and that there was still the concern that the placement of rules related to roads and crossings throughout the FPRs continued to pose a problem to RPFs, review team member agencies, and the public.

Background Continued

- Following months of Committee meetings reviewing the Inter-agency Roads Task Force package, the Committee recognized that the rules package was not yet ready for acceptance and in December 2004 it assigned a new committee, the Road Rules Technical Working Group that included representatives from the agencies, timber industry and the public. When asked if the Road Rules Technical Working Group could go beyond just going through the Inter-Agency Road Rules package and work toward developing a section of the Forest Practice Rules that addresses all aspects of forest roads, the Committee gave direction to proceed in this manner.

Background Continued

- The general outline of the Road Rules Technical Working Group was agreed to be:
 - Planning and Design
 - Construction and Reconstruction
 - Use and Maintenance
 - Abandonment
 - Monitoring
- It was also agreed that logging road watercourse crossings would follow the same outline, but be contained in a separate series of rule sections.

Re-organization

- Identify and collate all road/landing and road related watercourse crossing rules
- Develop a comprehensive framework of activity categories for both roads/landings and watercourse crossings under which the existing rules could be nested
 - Recognizes importance of watercourse crossing practices

- General Guidelines
 - Use an iterative process to improve the package
 - Develop an understandable format; consistent approach
 - Have each category flow logically (general to specific)
 - Performance standards first followed by prescriptive measures
 - Implementation timing last
 - Landing requirements to follow those for roads
 - Place T or I rules at the end of each category

Re-organization Continued

- Watercourse crossing categories follow those for roads and landings
- Final Categories
 - Intent
 - Planning
 - Design/Implementation
 - Mapping and Identification
 - Mapping specific requirements moved to 14CCR1034(x)

Re-organization Continued

- Construction/Reconstruction
- Erosion Control
- Use
- Maintenance and Monitoring
- Abandonment and Deactivation
 - Watercourse Crossing Removal
- Other (e.g. Definitions, Contents of Plan, LTO Responsibility)

Review Criteria (see background paper previously provided to the BOF and available on website)

- Retain rules with current relevance
- Modify those in need of revision based on the following:
 - Consider implementation and compliance perspectives (agency, landowner, RPF, public)
 - Consider recommendations/insight derived from: the previous inter-agency road task force, past and current monitoring efforts (e.g. MSG Hillslope Monitoring, CDF Modified Completion Reports/FORPRIEM, IMMP), approaches from other states and related guidance manuals and handbooks

- Gauge frequency, location and extent of problems
- Consider area of application (e.g. Forest District, statewide, T or I watersheds)
- Use both prescriptive and performance (outcome) based approaches and maintain flexibility (e.g. Use of exceptions)
- Improve clarity
 - Remove rule language from individual definitions and into the appropriate rule section
 - Examples: “abandonment”, “prescribed maintenance period”

Review Criteria Continued

- Write in understandable English with proper punctuation (e.g. get the commas right); use bulleting
 - Consistency
 - Avoid redundancy while making each section usable by RPFs, review team agencies, LTOs and the public
 - Simplification
 - Combine pertinent rule sections
 - Example: Road and landing rules addressing same issue
 - Separate logging road watercourse crossing rules

Review Criteria Continued

- Develop additional rules to address other identified areas of concern
 - See criteria for rule modification above
 - Clear demonstrated need
 - Avoid new rules regarding general practice (raising-the-bar) or limited application
 - Focus on desired outcomes
 - Evaluate potential solutions
 - Example: Training rather than rule making
- Delete rules that are no longer relevant, are inconsistent, or where we were not able to understand the intent
 - Few, although many combined

Highlighting Significant Policy Issues

The Board and Forest Practice Committee will need to consider the following:

- Identify and strive for consistency with other laws and authorities (e.g. CEQA, Water Code (discharge, waivers/GWDRs), DFG Code (ITP, CESA, 1600s)
 - Examples: Public safety, significant archaeological sites, air quality (e.g. Serpentine material), worker safety (e.g. Landing sizes), sediment delivery thresholds, “rare” plants

- Exceptions – 14CCR923(c)
 - General versus varying versions rule by rule or section by section
 - Don't discourage site-specific application of practices
 - Application of discretion regarding plan requirements, exceptions, mitigation, lead agency, responsible agencies enforcement and RPF/LTO responsibilities
- Each section begins with performance standards with specific prescriptive language later in each section. The revised rules continue to use surrogates (e.g. deleterious quantities approach)
 - Example: 14CCR923.5(a and b) – adequate drainage

- The qualifiers: “potential”, “may”, “could”, “will”, are used in addition to “shall” and other prescriptive standards
- Area of application
- Acknowledge T or I, Coho Assistance 2007 and Road Management Plan (RMP) rules and possible need to re-visit or provide linkage:
 - Examples: Differing definitions, time frames, RMP as exception to standard rule(s)
- Legal/enforcement issues related to roads and harvest area
 - Use, ownership, rights/responsibilities

- Expansion of Plan Contents (14CCR1034x)
 - May need to develop a desired-future-structure before populating
- Consider the relationship of proposed rule package to other rule sections not proposed for modification but which will need to be re-evaluated
 - Promote consistency avoid unintended consequences
 - Examples:
 - Article 6, Watercourse and Lake Protection: 14CCR916.4(a)(1), 916.7(a)
 - Article 4, Harvesting and Erosion Control: 14CCR914.6(b), (h) and (i)

Substantive T&I Modifications

Existing

- Stable Operating Surface
- 923.9(a)
- 916.9(o)
- 923.9(c)
- 916.9(n)(1)(B&C)
- 916.9(n)(2)
- 923.3(e)
- 916.9(h)(3), 923.3(g)
- 916.9(h)(2)
- 916.9(k)
- 916.9(n)(3)

Proposed

- two options
- 923.1(f), two options
- 923.2(f)
- 923.4(r)
- 923.5(p)(3)(D&E)
- 923.6(i)(4)
- 923.11(c), 923.13(b)
- 923.11(i), 923.10(i), 923.13(c)
- 923.11(j), 923.10(i)
- 923.13(m)
- 923.6(i)(3), 923.14(b)(4)(C)

Materials Provided

- Background paper
- Rule package (10/22/07 version)
- Rule Matrix
 - Indicates new rules and where modified rules come from
 - Summarizes rule changes and contents
 - General reason for changes

Next Steps

- Revise Matrix
 - Categorize rule modifications or new rules as primarily involving the following issues: Clerical, Technical or Policy
 - Include more specific rule rationale
 - Make minor corrections
- Identify gaps, documentation needs, related references

Relationship to BOF Rule Development Process

References

- Brandow, C.A., P.H. Cafferata, and J.R. Munn. 2006. Modified Completion Report monitoring program: monitoring results from 2001 through 2004. Monitoring Study Group Final Report prepared for the California State Board of Forestry and Fire Protection. Sacramento, CA. 80 p. Available at:
http://www.bof.fire.ca.gov/pdfs/MCRFinal_Report_2006_07_7B.pdf
- Cafferata, P.H., and J.R. Munn. 2002. Hillslope Monitoring Program: monitoring results from 1996 through 2001. Monitoring Study Group Final Report prepared for the California State Board of Forestry and Fire Protection. Sacramento, CA. 114 p. Available at:
http://www.bof.fire.ca.gov/pdfs/ComboDocument_8_.pdf
- McCashion, J.D., and R.M. Rice. 1983. Erosion on logging roads in northwestern California: How much is avoidable? *Journal of Forestry* 81(1): 23-26. Available at:
<http://www.fs.fed.us/psw/publications/rice/McCashion.pdf>