

PRELIMINARY ECONOMIC ANALYSIS
Forest Practices Board
Rule Making Affecting Road Maintenance and Abandonment Plans

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OBJECTIVES

The Forest Practices Board is considering a rule change to allow forest landowners who have Road Maintenance and Abandonment Plans (RMAPs) to apply for an extension of the deadline for up to five years. The proposed rule change would amend WAC 222-24-050 and -051, changing the completion date for RMAPs from July 1, 2016 to July 1, 2021.

The Board's objective is to be responsive to a request from private forest landowners with RMAPs to adjust the RMAP completion schedule to provide relief from a reduced cash flow situation in Washington's timber industry due to the recent economic recession without reducing the legal commitment to complete forest road improvements necessary to protect and restore water quality and fish habitat.

CONTEXT

Existing Rule on Road Maintenance and Abandonment Plans

In 1999 the Washington State Legislature enacted the Salmon Recovery Act (Chapter 4, Laws of 1999). In it, the Forest Practices Board was strongly encouraged to follow the recommendations of the April 29, 1999 Forests and Fish Report when adopting rules for the protection of aquatic resources. The rules were to accomplish a variety of policies listed in RCW 76.09.010 "without jeopardizing the economic viability of the forest products industry" (RCW 76.09.370).

The Board fulfilled this mandate by adopting emergency rules in early 2000 and permanent rules in 2001. These rules, commonly referred to as the Forests and Fish rules, included a requirement for forest landowners to assess the roads on their properties and plan for ongoing maintenance of existing roads, abandonment of certain roads, and repair or replacement of fish passage structures. The purpose of the road maintenance and abandonment plan was to ensure that management of all forest roads would maintain or provide passage for fish in all life stages, provide for the passage of woody debris likely to be encountered in a 100-year flood event, and meet water quality standards by limiting and controlling sediment delivery and surface runoff to typed waters, protecting stream bank stability, and diverting most road runoff to the forest floor.¹ The rules specified a deadline of July 1, 2006 for landowners to complete these road maintenance and abandonment plans and a deadline of July 1, 2016 for completing the work identified in the plans. These deadlines followed the recommended timelines in the Forests and

¹ WAC 222-24-010(2) and Forests and Fish Report, Appendix D, section I (a), April 29, 1999.

Fish Report of five years after the adoption date of the rules for completing the road plans and 15 years after the rule adoption date for completing the road work.

According to the May 2010 report by the “Staff Group” to the Road Policy Work Group of the Forests and Fish Policy Committee entitled “Information Compiled to Help Evaluate the Consequences of Extending the Implementation Period for Road Maintenance and Abandonment Plans in Washington” (hereinafter referred to as “Policy Staff Group” report)², the 15 year RMAP performance period was not based on science (p. 16). At the time the Forest and Fish rules were developed, 15 years of “worst-first” implementation was considered a reasonable time frame to balance economic and resource protection considerations.

In 2003 the Legislature amended the forest practices statute to simplify the requirements of road maintenance planning for small forest landowners and to establish a cost-share program to help fund the removal of fish blockages on their lands (Second Substitute House Bill 1095). Rules implementing this legislation are codified in WAC 222-24-0511 which describes road maintenance planning requirements for small forest landowners³. Small forest landowners were exempted from the requirement to complete a formal road maintenance and abandonment plan and were only required to submit a “checklist” RMAP when they submit a forest practices application. Small forest landowners who own a total of 80 acres or less of forest land in the state are not required to submit any type of road maintenance and abandonment plan for any block of land that contains 20 contiguous acres or less.

Large forest landowners⁴ are still required to complete a road maintenance and abandonment plan and complete all RMAP work by July 1, 2016. This work requires significant expenditures each year and is primarily financed by revenues generated from timber harvests. For many timber companies, the economic recession of the past several years has slowed the cash flow necessary to fund the annual RMAP work required for forest road improvements and fish passage barrier repairs. In the summer of 2010, the Forests and Fish Policy Committee recommended that the Board amend the RMAP rules to allow large forest landowners⁵ to apply

² This report is available at http://www.dnr.wa.gov/Publications/bc_fp_materials_20100810.pdf, “F&F Policy’s RMAPS Proposal Recommendation–Hotvedt.”

³ “Small forest landowner” is defined in WAC 222-16-010 as “a forest landowner who at the time of submitting a forest practices application or notification meets all of the following conditions:

- Has an average annual timber harvest level of two million board feet or less from their own forest lands in Washington state;
- Did not exceed this annual average harvest level in the three year period before submitting a forest practices application or notification;
- Certifies to the department that they will not exceed this annual harvest level in the ten years after submitting the forest practices application or notification.”

⁴ “Large forest landowner” is defined in WAC 222-16-010 as a forest landowner who is not a small forest landowner.

⁵ As part of the negotiations among Forests and Fish Policy Committee members on moving this proposed rule forward, the State of Washington agreed not to seek an RMAP time extension on public lands managed by the Department of Natural Resources and the Department of Fish and Wildlife, even though the proposed rule change language would allow it.

for an extension of the RMAP deadline for up to five years, or until July 1, 2021, without reducing the legal commitment to complete RMAP work necessary to protect and restore water quality and fish habitat.⁶ On August 10, 2010, the Board directed staff to begin the rulemaking process.

Road Maintenance and Abandonment Plan Work Status

The current requirement is for all RMAP work to be done within a 15 year period, from July 1, 2001 to July 1, 2016. The work is to be undertaken and accomplished at an “even-flow” rate, with landowners making sufficient progress each year so that all the necessary work is completed by the July 1, 2016 deadline. The RMAP work items are to be prioritized under a “worst first” principle to achieve the most benefit to public resources earlier in the RMAP period.

The Department of Natural Resources’ (DNR’s) “RMAP Accomplishment Summary for 2001 through 2010”⁷ contains information on the progress made on RMAP work on forest land ownerships under 262 road maintenance and abandonment plans through December 2010, as shown in **Figure 1**. The data is for the first 9 ½ years, or 63%, of the 15 year period in which

FIGURE 1. RMAP Work Accomplished As of 12-31-10

Years Into 15-Year RMAP Work Period	Miles of Forest Roads Assessed	Miles of Road Improvement	Miles of Road Abandonment	Miles of Orphaned Roads	Total Number of Fish Passage Barriers Identified	Number of Structures Fixed on Fish Habitat Streams	Miles of Fish Stream Habitat Opened
9 1/2	57,442	20,494	2,915	2,333	7,025	3,769	1,772
63%						54%	

RMAP work is to be completed under current Forest Practices rules. The data show that 20,494 miles of road improvement work were completed in this time period (through 2010). Road segments totaling 2,915 miles of road were abandoned. A total of 3,769 fish passage barriers were fixed, or 54% of the total number of 7,025 identified as needing to be addressed in RMAPs.

⁶ In addition to the proposed rule change allowing for an RMAP time extension, the Forests and Fish Policy Committee members agreed to other RMAP program initiatives to be implemented outside of rules. Most notably, RMAP reporting requirements and data management will be improved with DNR developing and maintaining a standardized system to receive, track, and report RMAP accomplishments. Improvements in project tracking will help DNR, stakeholders, and tribes evaluate RMAP project priorities and scheduling. In addition, the Forests and Fish Policy Committee members agreed to collaboratively work to seek additional state and federal funding for road maintenance and fish passage improvements on small forest landowners’ lands and under county roads.

⁷ This report is available from the Department of Natural Resources Forest Practices Division at (360) 902-1400.

This data suggests that the RMAP fish passage barrier removal work may be behind the even flow rate.

In a separate February 2010 survey of large private and public forest landowners, the Washington Forest Protection Association (WFPA) found that 56% of fish passage barriers located specifically on salmon, steelhead, and bull trout waters had been removed. This supports the conclusion in the DNR report that 54% of all fish passage barriers needing replacement had been removed as of the end of 2010.

Another measure of the state of progress on RMAP work is given in the May 2010 “Policy Staff Group” report. In April 2010, a survey regarding RMAP completion was sent to DNR’s six region RMAP specialists who answered based on a representative sample of RMAPs in each of the regions. The results indicated that while most RMAPs (59%) had experienced significant implementation delays and while 21% were still significantly behind schedule, the majority—79%—were now either on or ahead of schedule (pp. 7-9). There was no discernable difference in completion rate among the four RMAP landowner categories—large industrial, small industrial, public agency, and small forest landowner.

PROPOSED RULE

The rule proposal affects WACs 222-24-050 and -051. It allows forest landowners with road maintenance and abandonment plans to apply for an extension of the timeline for completion of work specified in their RMAPs for up to five years, or until July 1, 2021 at the latest. In addition, it specifies a process for landowners requesting a time extension and a process for DNR to allow for a multi-stakeholder review of a landowner’s request for a time extension:

- Landowners may request time extensions at least 120 days prior to their initial RMAP anniversary date in 2014, specify the length of time for the extension period, and include a revised plan that follows the existing requirements outlined in WAC 222-24-051, subsections (3) through (6). Generally, the schedule of work is to be based on an “even-flow” pace and a “worst first” principle: road work with the highest potential to benefit public resources is required to be given the highest priority in plans.
- DNR will provide a 45-day review period for the Departments of Ecology and Fish and Wildlife, affected tribes, and interested parties to review and comment on revised plans. DNR will then approve or deny RMAP time extension requests at least 30 days prior to the anniversary date of an initial plan.

If any actions are taken that result in a change to a revised plan after approval, DNR will notify the Departments of Ecology and Fish and Wildlife, affected tribes, and interested parties.

COST-BENEFIT ANALYSIS

The Administrative Procedure Act (RCW 34.05.328) requires agencies to complete a cost-benefit analysis before adopting a significant legislative rule. An agency cannot adopt a significant legislative rule unless it:

- Determines that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented; and
- Determines, after considering alternative versions of the rule, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives of the statute that the rule implements.

Benefits

The proposed rule change is intended to provide relief to large forest landowners for whom the recent economic recession has compromised their ability to get their required RMAP work done by the current July 1, 2016 deadline. The rule change would allow them to delay some of their work for up to an additional five years, thereby reducing the near-term annual cost of RMAP compliance. It does not change the total amount of expenditures required, but it does reduce the present value of the future expenditures by spreading them over a longer future period. In addition to this financial benefit, the time extension would also provide some additional business flexibility.

As stated previously, the State of Washington has agreed not to seek an RMAP time extension on lands managed by the Department of Natural Resources and the Department of Fish and Wildlife. Also as stated before, the Forest Practices rules were previously amended to exempt small forest landowners from the more extensive RMAP requirements. Therefore the economic impacts of the proposed RMAP rule change are limited to large private forest landowners, which is the regulated community in this case.⁸

The May 2010 “Policy Staff Group” report (p. 12) cites a survey by the Washington Forest Protection Association (WFPA) of its membership which consists of large private forest landowners on 4.04 million acres (representing about 88% of all large forest landownership). In early 2009, WFPA asked its members to estimate the cost of finishing their remaining RMAP work, based on the requirement to complete all work by July 1, 2016. From the survey results, WFPA estimated that, in 2009 dollars, its members would spend approximately \$133 million to complete their remaining required RMAP work.

In order to assess the economic benefit of the RMAP time extension to large private forest landowners, the WFPA estimate of remaining RMAP costs is first updated to correspond to the effective date of the proposed rule (if it should be adopted). An effective date of October 1, 2011

⁸There are some small forest landowners who elected to plan under a full RMAP pursuant to WAC 222-24-050; those landowners would be authorized to request an extension just as large forest landowners would under the proposed rule.

is assumed based on a presumption that the Board would adopt the rule at its August 9, 2011 meeting. Therefore almost three annual outdoor construction seasons will have elapsed from the time of the WFPA survey in early 2009 to the effective date of October 1, 2011. The May 2010 “Policy Staff Group” report cites another survey by the WFPA of its membership of large private forest landowners in April 2010 which concluded that these large private forest landowners spent an average of \$13.10 million per year on RMAP work through 2009 on their 4.04 million acres. Even though timber stumpage prices had moved dramatically down in 2008, these companies spent \$14.98 million on RMAP work that year. But because of the cumulative impact of the economic recession, they spent only \$8.44 million on RMAP work in 2009. Given that timber stumpage prices have since recovered from their periodic lows in 2008 and the first half of 2009, we are assuming that RMAP expenditures by the WFPA membership increased somewhat to \$10 million in the 2010 construction season (still considerably below the average annual expenditure). We also assume that \$12 million will be spent in the 2011 construction season (still below the average annual expenditure) as timber stumpage prices continue to rebound. It is therefore estimated that WFPA member forest landowners will need to spend approximately \$102.56 million (\$133 million - \$8.44 million - \$10 million - \$12 million) to complete their RMAP work by the current deadline.

Next, the amount estimated to complete RMAP work on WFPA members’ forest lands must be adjusted to account for all large forest landowners’ lands. According to the May 2010 “Policy Staff Group” report, there are approximately 600,000 acres of industrial forest land on which RMAPs are likely required beyond the 4.04 million acres owned by WFPA members. Assuming that the additional 600,000 acres have similar attributes to the WFPA members’ lands, the amount of funds required to complete RMAP work on all large forest land ownerships is estimated to be \$117.8 million ($\$102.56 \text{ million} \times 4.64 \text{ million acres} / 4.04 \text{ million acres} = \117.8 million).

Finally, to assess the economic benefit of the RMAP time extension to large private forest landowners, the present value of the amount needed to fund the annual payments for \$117.8 million in RMAP work prior to July 1, 2016 (the current deadline) is compared with the present value of the amount needed to fund the annual payments for the same \$117.8 million in RMAP work prior to July 1, 2021 (the proposed deadline). Even though the time periods starting October 1 and ending July 1 do not correspond with the beginning and end of the annual construction period, it is assumed that there are five years of work remaining under the current deadline and ten years of work remaining under the proposed deadline. To complete the remaining work in five years would require expenditures of \$23.6 million per year and in ten years \$11.8 million in annual payments would be required to complete the work. The current values of amounts required under the two scenarios, assuming a five percent discount rate, are shown in **Figure 2**.

The total potential benefit to large private forest landowners is \$11.1 million (\$102.2 million minus \$91.1 million) in net present value in current dollars. This means that they would need \$11.1 million less in current funds in order to meet their RMAP obligations under the proposed time extension as opposed to the current deadline.

FIGURE 2. Current Amount of Funds Necessary to Cover Remaining RMAP Expenditures on Private Large-Owner Forestlands Under Alternative Deadlines

RMAP Completion Deadline	Years of RMAP Work Remaining	Annual Expenditures	Current Value
July 1, 2016 (current deadline)	5	\$23.6 million	\$102.2 million
July 1, 2021 (proposed deadline)	10	\$11.8 million	\$ 91.1 million
Net Present Value			\$ 11.1 million

The actual benefit is likely to be much less because it is likely that not all of the landowners with RMAPs will elect to apply for time extensions. For example, if landowners representing half the acreage under RMAPs decide to proceed with their RMAP work by the current deadline of July 2016, then the realized benefit of the proposed rule would be only half as much, or \$5.6 million in net present value.

In addition to this financial benefit to the landowner community, costs to landowners who are unable to complete RMAPs by 2016 may be averted if this rule is adopted. If the proposed rule change is not adopted and a landowner is found to have not completed the required RMAP work by 2016, DNR may need to take compliance or enforcement action (for example, notices to comply or stop work orders) to ensure public resource protection. This is a very costly process for both the state and the landowner, particularly when there are compliance issues across several forest road networks which would need to be addressed on a site-by-site basis. Extending the deadline for landowners who have a legitimate need will maintain a schedule for landowners to complete the required road work necessary to protect public resources and for DNR to comply it. Ensuring RMAP work will be conducted within a structured RMAP schedule will prevent costly enforcement processes.

Costs

The purpose and overall goal of the road maintenance and abandonment plans and the associated road maintenance and abandonment work and fish passage barrier work is to protect and restore water quality and fish habitat. The sooner the work is completed, the sooner the habitat improves or becomes accessible. The main cost of the proposed rule change is the delay in realizing these intended environmental benefits that would result from a delay in completion of RMAP work. Under the proposed rule, the work would still be required to be done but it could be spread out over five additional years.

This economic analysis relies on the associated Environmental Checklist and Determination of

Nonsignificance⁹ for the proposed rule as the source for more detailed information about its environmental impacts (delayed benefits). The Environmental Checklist does not quantify the environmental impacts of a delay in the remaining RMAP work in terms of physical effects (e.g., sediment input, habitat quality) or biological response (e.g., fish populations) and it is also not conclusive about the qualitative impacts on fish populations that would be caused by extending the RMAP deadline. The checklist is hereby incorporated by reference and its findings are summarized below.

The Environmental Checklist concludes the following about sediment from roads and the impact on water quality:

- The rule proposal is not expected to cause increases in discharge of sediment from forest roads. The existing forest practices rules require roads to be constructed and maintained so as not to result in sediment and surface water delivery from forest roads to any typed water in amounts that preclude achieving desired fish habitat and water quality.
- There is the potential that some delay in road improvements could cause a delay in addressing previously unidentified road-related sediment discharges to streams, which could affect fish habitat.

The Environmental Checklist concludes the following about fish passage barriers and the impact on fish populations:

- Barriers to fish passage in a stream system prevent the system from reaching its natural productive capacity for fish.
- Barrier removal may increase fish access to potential upstream habitat, which in turn may facilitate increased fish populations by providing access to historic habitat.
- The number and geographic location of inadequately sized water crossing structures that would remain in place after 2016 cannot be precisely known.
- Assessing the proposal's impacts on fish, including salmonids, is an extremely difficult endeavor. Forest road networks cross many different land ownerships, only some of which are subject to Forest Practices Act jurisdiction. Fish passage barriers are ubiquitous on stream systems on Washington forest lands. Complicating things, some fish are anadromous species and spend their lives in both freshwater and saltwater environments. This variety of habitats can present an enormous array of environmental pressures on fish, only one of which is fish passage barriers in the forest environment. It is not possible to isolate the impacts of a five-year delay in the remediation of these barriers from other environmental impacts that fish encounter.

⁹ The Environmental Checklist and threshold determination (Determination of Nonsignificance) can be found at http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesRules/Pages/fp_rules_activity.aspx, under the heading, "Extension of RMAP Forest Road Work Completion Date."

The Environmental Checklist discusses the following about possible failures of inadequately engineered stream crossing structures:

- Storm events and the likelihood that existing stream crossing structures will fail are impossible to predict; thus, whether structures that are allowed to remain beyond 2016 will fail and cause impacts, is speculative.
- There is the chance this will occur in one or more locations, having a localized and temporary impact on the downstream environment. A possible impact is that some culverts and bridges could fail during the time that their replacement is delayed, thereby increasing the possibility of impacts on environmentally sensitive sites downstream.

Other factors discussed in the Environmental Checklist are relevant to the cost benefit analysis because they tend to reduce the potential adverse environmental impacts (costs):

- A majority of RMAPs are now either on or ahead of schedule. Twenty of the 262 RMAPs statewide have already been completed and, according to the Forest Practices 2010 RMAP Accomplishment Report, with six years remaining under the current 2016 deadline over half of the fish passage barriers had been removed (3,769 out of more than 7,000), over 1,700 miles of fish habitat have been opened, and over 20,000 miles of roads had been improved to meet standards.
- The work already completed under the RMAP process has been found effective in minimizing sediment delivery to streams. A 2008 study performed for the WFPA found that 73 percent of the forest roads sampled had a low probability of delivering sediment to a typed water course and that 82 percent of the road length studied had either low delivery potential or was hydrologically disconnected. This result was attributed to the road planning, relocation, abandonment, and disconnection activities that had already occurred under the RMAP program at that time.
- Concurrent with this rule making DNR is developing a statewide RMAP status database, in part to help provide certainty that the road work in RMAPs will be accomplished on a worst first and even flow basis. We believe this measure, along with the involvement of landowners and stakeholders in providing input to DNR in the decision to allow RMAPs schedule adjustments, and the 2014 deadline to request an extension of an RMAPs schedule, will help ensure that the road work with most potential to prevent damage to public resources will be given the highest priority in adjusted schedules if the rule is adopted.
- Without the proposed rule, the RMAPs performance period will expire, and water crossing and road condition issues will need to be addressed by DNR using administrative enforcement actions on a road-by-road, location by location basis. By allowing RMAP time extensions for landowners who need them, the proposed rule will help to ensure that their remaining forest road repairs will be completed on a worst-first, even-flow schedule and in a coordinated, orderly manner. This would achieve the best possible results for fish as soon as possible.

In summary, the Environmental Checklist indicates that the proposal will allow some portion of the existing fish passage barriers and inadequately engineered water crossing structures to remain on the landscape for up to five years beyond 2016. The Checklist also recognizes that many of the problematic structures would also remain on the landscape even without the rule change (due to the fact that some landowners fell behind on RMAP progress during the recession). If there were no rule change, however, DNR would need to address the problematic stream crossings through costly site-by-site enforcement actions.

After assessing the environmental effects of the proposal along with landowners' progress to date, the effectiveness of that work on public resources, and new administrative measures to help provide certainty that the road work in RMAPs will be accomplished on a worst first and even flow basis, the Board in its Determination of Nonsignificance has determined it will not result in significant adverse environmental impacts.¹⁰

There are two additional cost impacts, but they are considered minor:

- Landowners who elect to apply for an RMAP time extension would incur the costs of revising and updating their road maintenance and abandonment plan(s). The remaining RMAP work to be completed would need to be rearranged into a new, longer time schedule. This cost should not be significant since the base information already exists in the current approved RMAP.
- Although the proposed rule does not change the overall cost of RMAP road work remaining to be completed, it does impact the timing of the costs because it will move some of the road construction work forward in time. As described above, this deferring of costs into the future is a benefit to landowners. However, it represents a cost to road construction businesses and workers because some of the work they would otherwise be doing by 2016 would be deferred into the future. It is estimated that almost all of the RMAP road work is contracted out to road construction businesses rather than being done internally by the landowners with their own employees and equipment. Under the proposed rule and to the extent that landowners elect to apply for time extensions on their RMAPs work, there will be fewer road construction jobs and income in 2011-2016 and more in 2016-2021.

Comparison of Benefits and Costs

The total potential benefit to large private forest landowners due to the ability to extend the RMAP deadline is estimated to be \$11.1 million net present value in current dollars. The actual benefit is likely to be less because it is likely that not all landowners will elect to apply for RMAP time extensions. An additional benefit is that landowners will avoid the costs associated with enforcement and/or compliance actions in cases where they are not able to complete RMAP work by 2016.

¹⁰ Ibid.

The main cost of the proposal is the delay in realizing the intended environmental benefits of RMAPs (the protection and restoration of water quality and fish habitat) that would result from a delay in completion of RMAP work. The work associated with RMAPs would still be required to be done, but for some landowners it would be spread over five additional years. The Board has determined, after assessing the environmental effects of the proposal along with other measures to ensure public resource protection, that the proposed rule will not result in significant adverse environmental impacts.

Therefore, it is reasonable to conclude that the probable benefits of the proposal are greater than its probable costs.

Alternatives to Rule Making and Consequences of Not Adopting the Rule

In their work, the Sub-Policy Group to the Forests and Fish Policy Committee which developed the recommended rule change reviewed two other alternatives for extending the RMAP completion deadline.

The first was to allow landowners to decide whether to update RMAPs to meet an extended deadline (up to five years) that would be tied to economic indicators (e.g., new housing starts or timber stumpage prices). The Group reviewed economic data and projections and contemplated an adjustable schedule but a number of members thought this was not a desirable or appropriate method for determining the duration of a time extension.

The other alternative considered was to extend the deadline by five years and provide a tax incentive to encourage landowners to complete their RMAP work sooner. This option was deemed to be problematic given the need for enacting legislation and the current grim condition of state and county budgets due to dramatically reduced tax revenues.

In addition, both of these alternatives would require additional data reporting and tracking requirements.

If the proposed rule change is not adopted, certain large private forest landowners who remain significantly negatively financially impacted by the recent economic recession may not be able to complete their RMAP work by July 1, 2016. If a landowner is found to be out of compliance with the RMAP work schedule and DNR determines that this work is necessary to prevent potential or actual damage to public resources, DNR would need to take compliance or enforcement action (for example, notices to comply or stop work orders).

Least Burdensome Alternative

The Administrative Procedure Act states that agencies cannot adopt a significant legislative rule unless it determines after considering alternative versions of the rule that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives of the statute that the rule implements.

The proposed rule change is not burdensome on the regulated community and it is less burdensome than the other alternatives described above. It is less burdensome than the alternative of not adopting the rule change because it gives the forestland owner the choice of whether to apply for the up-to-five-year time extension. It is less burdensome than the alternative of tying the termination of the time extension to economic indicators because the length of the extended period could be cut short depending on the economic indicators selected (for example, timber stumpage prices have recovered sharply in the second half of 2009 and 2010 from their periodic lows in 2008 and the first half of 2009). It is less burdensome than the alternative of extending the deadline by five years and providing a tax incentive to encourage landowners to complete their RMAP work sooner because of the high degree of uncertainty surrounding the possibility and timing of actually getting such a tax break legislatively enacted.

SMALL BUSINESS IMPACTS

A small business economic impact statement is required by the Regulatory Fairness Act (chapter 19.85 RCW) to consider the impacts on small businesses of administrative rules adopted by state agencies. The statute defines small businesses as those with 50 or fewer employees. To determine whether the proposed rule will have a disproportionate cost impact on small businesses, the impact statement compares the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rule.

Small Business Analysis

There are no new or additional requirements or costs imposed on any members of the regulated community by the proposed rule change since it affords the opportunity for large forest landowners to elect to apply for an extension of the RMAP performance period of up to five years. Choosing whether to extend the RMAP performance period is voluntary on the part of the business (landowner), whether it is a large business, a small business, or an individual. Therefore there is no disproportionate cost impact on small businesses¹¹.

Reducing Costs for Small Businesses

RCWs 19.85.030 and .040 address an agency's responsibility in rule making to consider how costs may be reduced for small businesses, based on the extent of disproportionate impact on the small businesses. As stated above, there is no disproportionate impact on small businesses.

Estimated Number of Jobs Created or Lost

RCW 19.85.040 (2)(d) requires that the small business economic impact statement include "(a)n estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule."

¹¹ "Small businesses" for the purpose of this analysis are those members of the regulated community (large forest landowners) with 50 or fewer employees and is not to be confused with "small forest landowners" which has a distinct statutory definition.

The proposed rule does not result in any jobs being created or lost. However, as described above, the number of road construction jobs involved in doing RMAP work would be fewer in 2011-2016 and those jobs lost the first five years would be shifted forward into the last five years, when there would have been no RMAP-related jobs.

SUMMARY

The total potential benefit to large private forest landowners due to the ability to extend the RMAP deadline is estimated to be \$11.1 million in net present value in current dollars. The actual benefit is likely to be less because it is likely that not all landowners will elect to apply for RMAP time extensions. An additional benefit is that landowners will avoid the costs associated with enforcement and/or compliance actions in cases where they are not able to complete RMAPs by 2016.

The main cost of the proposal is the delay in realizing the intended environmental benefits of RMAPs (the protection and restoration of water quality and fish habitat). The work associated with RMAPs would still be required to be done, but for some landowners would be spread over five additional years. The Board has determined, after assessing the environmental effects of the proposal along with other measures to ensure public resource protection, that the proposed rule will not result in significant adverse impacts.

Therefore, it is reasonable to conclude that the probable benefits of the proposal are greater than its probable costs.

Two alternatives to adopting this rule were considered and rejected: tying the proposed RMAP time extension to economic indicators and providing a tax incentive for landowners to complete RMAPs work sooner during an extended period. For reasons explained in the “Least Burdensome Alternatives” section, they were rejected as being undesirable. The proposed rule change is not burdensome on the regulated community and it is less burdensome than the other alternatives.

There is no disproportionate cost impact on small businesses. Choosing whether to extend the RMAP performance period is voluntary on the part of the business (landowner).

The proposed rule does not result in any jobs being created or lost.