

# **SHARED ROAD MAINTENANCE/COST-SHARING PROCESS**

## **Information Package**

### **A. BACKGROUND**

During the transition between the Forest Practices Code and the *Forest and Range Practices Act* (FRPA), it was determined by government that with the downsizing of staff, many decisions previously mediated/arbitrated by MOFR staff would be left to the proponents to resolve on their own. The current statutory framework provides for Commercial Arbitration as the fallback when two parties cannot reach agreement, as was the case in a recent decision involving shared road use and reasonable contributions to road maintenance costs. Based on feedback from industrial users, both large and small, the cost of such arbitration usually outweighs any potential cost recovery.

Over the last several years, there has been growing evidence of non-agreement between major licensees and Timber Sale Licence (TSL) Holders, as well as difficulties with collection of moneys owed for shared maintenance. This poor track record related to shared road use has come to the attention of the Forest Practices Board, politicians, and MOFR executive, field and headquarters staff. The joint agency/industry roads policy group known as the Forest Engineering Steering Committee (FESC) has been working with the ministry to find a workable solution to this problem. The FESC evaluated a number of options, particularly with a view to minimizing the amount of both ministry and company staff.

The following process is the result of considerable discussion and negotiation among the various stakeholders, and the process is provided as a best practice geared to resolve the majority of situations that may crop up around the province. There will undoubtedly be situations that cannot be addressed by this model, and may need further local attention to resolve each case.

### **B. SAFETY FOCUS**

During the development of this package of shared use procedures, it became apparent to Forestry TruckSafe, as a part of the Forest Safety Council, that improved road maintenance was a key component in reducing fatalities and injuries to forest workers operating logging trucks. A results-based compendium of maintenance standards was recognized as a major step towards improving truck safety on our forest road network. These Road Surface Maintenance Standards are also included in this package.

### **C. GUIDING PRINCIPLES**

1. The intent of this process is to better assure:
  - a) a reasonable cost of shared maintenance;
  - b) agreement to pay shared maintenance costs; and

- c) delivery of a level of road surface maintenance that will provide for industrial safety and protect the structural integrity of the road prism.
2. The major licensee, referred to for purposes of this process as the “Maintainer”, is responsible for upgrading a road where necessary to restore the surface to an acceptable industrial use standard. However, where the road has been and would otherwise be maintained to a wilderness level of maintenance, the cost for that work is to be borne either by
  - a) the BCTS Business Area entering directly into an agreement with the Maintainer, or
  - b) the TSL Holder carrying out the upgrading as part of their licence responsibilities when the Maintainer has opted to have the TSL Holder carry out the maintenance work by agreement.
3. If there are currently local agreements or arrangements that work, there is no intent to modify those arrangements. There may be a road user committee in place, with clear and acceptable terms and conditions for delivery of and payment for road maintenance, or an individual Maintainer may be delivering a suitable level of maintenance and currently reaching agreement with and collecting payments from secondary industrial users.
4. To apply this process to a road or road system to be used by one or more TSL Holders, firstly the Maintainer must confirm to the BCTS Business Area that it wishes to avail itself of the cost collection process provided for the particular timber sale. Then, the requirement to sign the Standard Road Maintenance Agreement is built into the timber sale license, and the road maintenance standards are incorporated into the specific major licensee road permits or road use permits and applied to those road sections covered by the Standard Road Maintenance Agreement.
5. For those FSRs where this process will apply, no additional deposits shall be taken on TSL Holder road use permits to satisfy potential maintenance obligations.
6. Should the Maintainer choose not to utilize this cost collection process, the only clause that would be added to a timber sale license document is one that commits the TSL Holder to agree to the terms and conditions of a road user committee, should one be operating on the roads serving the TSL. No changes would be made to the major licensee’s permits.

#### **D. ROAD SURFACE MAINTENANCE STANDARDS**

The Road Surface Maintenance Standards, incorporated into this document in the detailed procedures and included in the Maintenance Agreement Package, provide some guidance for the regulatory requirements to ensure an industrial level of safety and to protect the structural integrity of the road prism. Specifically related to the issue of shared use and maintenance, the standards provide an agreed-upon level of maintenance that will be provided for the secondary user for their given cost share.

## **E. MAINTENANCE COSTS AND COLLECTION OF FUNDS**

This Process, reflected in the Standard Road Maintenance Agreement template, provides for the costing of road maintenance in a consistent manner using the Coast and Interior Appraisal Manual tables as the basis. The cost is based on dollars per cubic metre of harvest. Often, the road network serving a specific timber sale may be comprised of a number of forest roads maintained by one or more Maintainers. The network may include roads under road permit as well as Forest Service roads under road use permit. The tabular cost of maintenance is apportioned to the various roads used to transport the TSL timber, based on the length of each road or road section pro-rated over the total length of forest roads serving the sale. As such, the total dollar amount for road maintenance may be distributed to more than one Maintainer, and may reflect the TSL Holder's own road maintenance operations for those roads under road permit or road use permit to that TSL Holder.

Where it is determined by the BCTS Business Area that the timber from the timber sale will be sold to one purchaser, whether it is a mill or a log broker, the Standard Road Maintenance Agreement will direct that purchaser to hold back the agreed-upon maintenance dollars and remit them to the Maintainer. Where the logs from a timber sale will be dispersed such that the eventual recipient of the wood is unknown, the Standard Road Maintenance Agreement will commit the TSL Holder to pay the Maintainer directly every 30 days the maintenance amount owing based on the scaled timber moved over the road during that period. Because the requirement to sign the Standard Road Maintenance Agreement and meet its terms and conditions will be a license requirement, failure to pay the owed maintenance dollars may result in the Timber Sales Manager utilizing the license deposit at the conclusion of the sale to satisfy the obligation.

## **F. DETAILED PROCEDURES:**

### ***Prior to Advertising a Timber Sale:***

If there are any road permit roads or Forest Service roads being maintained by a Maintainer that will access a new TSL, the Business Area will advise the Maintainer of the pending sale advertising, and ask the Maintainer whether or not they wish to avail themselves of the cost collection package.

The Maintainer must respond in writing within 5 working days as to their desire to utilize the cost collection process or not. Should the Maintainer fail to meet the time deadline, the default response will be *not* to use the process.

### ***Preparing the TSL package:***

- a) if the Maintainer *will not be* utilizing the process:
  - If there is no road user committee in place for the roads serving the TSL, no additional clauses will be added to the Timber Sale License. Any cost-sharing

agreements will be concluded outside of this process, and there will be no license or permit tie-in to any such agreements.

- If there is a road user committee in place for the roads serving the TSL, the BCTS Business Area will embed the following clause into the Timber Sale License:

“The Licensee must reach agreement with the \_\_\_\_\_ 'Road User Association' for payment for the use of roads accessing the License area, and must abide by the maintenance fee structure determined by that association. The Licensee must forward the signed agreement to the Timber Sales Manager prior to commencing harvesting.”

b) If the Maintainer *will be* utilizing the cost collection process:

- The BCTS Business Area will complete the Standard Road Maintenance Agreement and provide it in the timber sale package for the TSL Holder to sign and obtain the signature of the Maintainer. That Agreement will provide the maintenance cost per cubic metre of scaled volume off the Licence, and will also provide the distributed cost based on the individual and total lengths of forest road used to transport the TSL timber.
- The BCTS Business Area will incorporate the following clause in the TSL:

“The Licensee must enter into a Standard Road Maintenance Agreement (FS1287) in a form approved by the district manager, with the holders of any road permits and the maintainers of any Forest Service roads for roads that will be required for the transport of logs from the Licence area.”

The Licensee must forward the signed Standard Road Maintenance Agreement to the Timber Sales Manager prior to commencing harvesting.

The Licensee must pay the dollar amount specified in the Standard Road Maintenance Agreement to the road permit holder or maintainer, in the manner specified in that agreement. Failure to meet the requirements of the Standard Road Maintenance Agreement may be construed by the Ministry Official as a breach of this Licence.

***Amending major licensee road permits and road use permits:***

Following consultation with the BCTS Business Area, the district will amend the specific road permit(s) and road use permit(s) that are currently issued to the Maintainer (referred to as the “Permittee” for purposes of road permits and road use permits), to add the following clauses (1 and 2) in Schedule A in each document:

1. The Permittee agrees that the following road maintenance standards will apply, and must be met by the Permittee during the life of the Standard Road Maintenance

Agreement, for the following roads and road sections (*enter those roads/sections that will be covered under a Standard Road Maintenance Agreement*):

---

---

---

## **Road Surface Maintenance Standards**

2. The Permittee must maintain access and carry out repairs to restore access for any industrial use on the road during the period that the road is being used under the Standard Maintenance Agreement. Items of the Road Surface Maintenance Standards must be addressed in a timely manner to provide a suitable level of safety and quality of access for industrial users when a road is actively being used for industrial purposes.

### **Drainage systems**

Ensure that road surface and slope drainage systems, including ditches, culverts and road crowning, insloping and outsloping, are functional.

### **Brushing**

This work consists of cutting all vegetative growth, including trees and other vegetation on roadway surfaces and roadsides.

Brushing is required when one of the following conditions occur:

- a) Sight distance is impeded or reduced to the point that the limited sight distance is not safe for the road alignment.
- b) Where snow removal is an issue, brushing must be sufficient to accommodate snow placement beyond the road shoulder without impeding sight distance.
- c) Usable road width is reduced to the point that vehicles cannot safely pass each other at road widenings or turnouts.

Any dangerous trees that may reach the road surface must be felled in accordance with WorkSafe BC requirements.

### **Road surface grading**

This work is to be done on roads other than those with ballast rock surfaces, and consists of utilizing a grader to perform surface grading to the road to a condition that will facilitate industrial use and provide proper road surface drainage and to prevent water pooling on the road. Grading includes shaping the crown or slope of the road surface and removing grader berms in accordance with this specification. Compaction may be required on those sections that will not stabilize by normal grading activities.

In addition, the Permittee must do the following:

- a) Perform surface grading during operational use of the road as often as needed to provide a road surface that self drains and minimizes road surface erosion.
- b) Grade and shape the existing road surface and shoulders, including turnouts, to produce a surface commensurate with road alignment (considering factors such as: smoothness, uniformity, crowning or cross sloping, etc.).
- c) Place or replace surface aggregate where necessary to achieve the objectives in (1) and (2) above.
- d) Unless otherwise specified, thoroughly loosen surfacing material by cutting, scarification or other methods to address the depth of potholes, rutting or washboarding, without causing contamination of the surfacing with the subgrade material or with unsuitable ditch materials.
- e) Grade only when moisture content is suitable, which may require the addition of water.

### **Turnouts**

Turnouts must be either intervisible or of a sufficient number given the traffic volumes and the use of radios on the road. They must be sized to accommodate the vehicles that are in regular use on the road.

### **Sign Maintenance**

This work consists of cleaning, replacing, and reconditioning signs, posts, and markers that currently exist or are the Permittee's responsibility to install. These include but are not limited to radio frequency call signs, information signs, kilometre markers, traffic control signs and bridge delineators.

### **Winter maintenance**

This section provides for winter maintenance of roads to facilitate logging operations and safe use.

The Permittee must do the following:

- a) Perform work in a manner to preserve and protect roads, including bridges and other structures.
- b) As part of ongoing winter log haul operations, remove snow from all or part of the travelled way, including sufficient turnouts, when operations become inefficient, and/or the road would be otherwise unsafe for industrial use.
- c) Do not undercut cut slopes.
- d) Do not blade gravel or other surfacing material off the road.
- e) Restrict snow removal to the usable road surface having roadbed support, including turnouts. Reshape over-width plowing as necessary to define the usable width.

- f) Wing back or breach snow banks to facilitate drainage at a sufficient number of locations to reduce water flow along road surfaces during periods of melt.
- g) Keep roadbed drainage ditches, drainage dips, and culverts functional during periods of melt.
- h) Add sand to the bladed road surface as needed to provide proper traction for industrial vehicles where chains will not be suitable or sufficient.
- i) With district manager approval, close roads to wheeled vehicles at times when use would be unsafe or when damage to the road could occur.

### **Completion of shared use**

When the shared use of a forest service road(s) under a Standard Road Maintenance Agreement has concluded, and the responsibility for maintenance is to be transferred to another user or back to the Ministry of Forests and Range, the road must be left in a condition that conforms with these maintenance standards. This may require that the Permittee return to the area after breakup or snowmelt to complete the necessary maintenance work.

### **G. FOLLOWUP AND ENFORCEMENT BY MINISTRY OF FORESTS AND RANGE STAFF ON ROADS UNDER ROAD MAINTENANCE AGREEMENT:**

During the life of the TSL, normally responding to complaints from the Maintainer, the BCTS Business Area will investigate any apparent breach of the Agreement by the TSL Holder in terms of payment for the maintenance work. Should the breach continue, the TSM may, at the conclusion of the sale, utilize the TSL license deposit to satisfy the shortfall in maintenance payments.

During the life of the sale, normally responding to problems found during routine monitoring by the BCTS Business Area or District staff, or as a result of complaints from a TSL Holder, Compliance & Enforcement staff may investigate the state of the road surface maintenance and take any necessary actions to ensure that the Maintainer complies with the terms of the Standard Road Maintenance Agreement.

Under section 63 (2) of the *Forest Practices Code of BC Act*, a person responsible for maintaining a road must maintain the road in accordance with a number of documents, two of which are a road permit and a road use permit. Accordingly, if the standards become part of a road permit or road use permit, failure to meet the standards may result in an offence or an administrative remedy, both enforced by Compliance and Enforcement.

Currently, this provision does not reside in FRPA. However, in both the Forest Road Regulation and the Forest Planning and Practices Regulation, roads must be maintained to:

- protect the structural integrity of the road prism and clearing width, and
- ensure that the road can be used safely by industrial users.

Therefore, while enforcement of the permit is not available to Compliance and Enforcement under FRPA, they may use the road surface maintenance standards as an interpretive guide reflecting the expected level of maintenance to accomplish the regulatory requirements. However, site-specific circumstances will govern.