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September 16, 2015

Board of Forestry and Fire Protection  
Attn: Kevin Conway  
P.O. Box 944246  
Sacramento, CA 94244-2460

**RE: Comments on the 15-Day Notice for the Revised Statement of Reasons  
(otherwise known as the Supplemental Statement of Reasons for Rulemaking File)  
for the “Working Forest Management Plan”**

Dear Mr. Conway:

These comments are submitted on behalf of the Environmental Protection Information Center (EPIC) and the Coast Action Group (CAG). Both organizations participated in the rulemaking process for the Working Forest Management Plan (WFMP) regulations, adopted by the Board of Forestry and Fire Protection (Board) on June 17, 2015.

These comments are in response to the “Notice of Addition of Documents and Information to Rulemaking File Working Forest Management Plan,” which Board staff issued on September 1, 2015, advising that comments must be submitted by no later than 5:00 p.m. on September 16, 2015 (15-Day Notice).

EPIC and CAG believe the legal process now being undertaken by the Board staff to add documentation and information to the rulemaking file is not authorized by law. The rulemaking record needed to be in place and intact at the time the Board adopted the WFMP regulations on June 17, 2015. Accordingly, EPIC and CAG see this maneuver by Board staff as an attempt to introduce after-the-fact information to support the Board’s June 17, 2015. This is not allowed, and the attempt now by Board staff to “provide corrected, more complete, and additional information to the WFMP Initial Statement of Reasons (ISOR)” is illegitimate. The law is clear that a state agency may not add material to the record of the rulemaking proceeding after close of the public hearing or comment period unless the agency complies with Government Code section 11347.1. Gov’t Code § 11346.8 (d). Section 11347.1, by its very terms, contemplates that any effort to add documents to the rulemaking file occurs prior to adoption of the proposed regulations. The WFMP regulations were adopted on June 17, 2015, and this post-adoption attempt by staff to bolster the rulemaking file with additional documents and rationale violates these provisions, as well as the Board’s rulemaking procedures and the California Environmental

Environmental Protection Information Center  
145 G Street Suite A Arcata, CA 95521  
(707) 822-7711  
[www.wildcalifornia.org](http://www.wildcalifornia.org)

Quality Act (CEQA).

To the extent the Board may have authorized issuance of the 15-Day Notice, it acted arbitrarily and capriciously, without proper procedure and in violation of the law.

EPIC and CAG provide comments here in an effort to further identify errors committed. The Supplemental Statement of Reasons (SSOR) advises that it has four purposes: (1) to augment the necessity statements for the provisions indicated; (2) revise the number of timberland owners eligible for a WFMP; (3) correct the documents relied upon by striking one and adding another, and; (4) providing evidence relied upon to support the initial determination that the proposed action will not have a significant adverse impact on business. We address each of these in order presented.

**1) Augment Necessity Statements.**

Government Code section 11346.2 (b)(1) requires that the specific statement of purpose and reasonable necessity be included in the ISOR. “Necessity” is defined to mean that the rulemaking record “demonstrates by substantial evidence the need for the regulation to effectuate the purpose of the statute ... or other provision of law that the regulation implements, interprets or makes specific, taking into account the totality of the record.” Gov’t Code §11349 (a). The ISOR did not provide adequate statements of necessity and purpose, and the rulemaking file in place on June 17, 2015 does not satisfy the substantial evidence standard to support the regulations. The attempt to bolster the record by “augment[ing]” the necessity statements does not overcome this failure. Moreover, the SSOR statements of necessity – or “specific purpose” – for each regulation lack substantial evidence, and in many instances, are not supported by the actual language of the provision they are intended to support. Our comments on specific provisions are detailed in Attachment A, which is included with this letter and incorporated by reference herein.

**2) Revise Number of Timberland Owners Eligible for a WFMP.**

It is critical to know the number of timberland owners that may be eligible for the benefits of a WFMP, as the number of private timberlands owners who may then reap the benefit of these perpetual logging management plans can have multiple and varying impacts which remain unexamined. It is not sufficient to “assume” the estimated number of timberland owners that may benefit from the WFMP. Yet that is exactly what the Board did before it adopted the WFMP regulations in June 2015. At that time, the estimated number of landowners was 81, which was based on a “preliminary report” from January 2013. That report does not constitute substantial evidence, as it is devoid of any actual data. EPIC attempted to secure the supporting data so that it could be reviewed in advance of the Board’s adoption in June 2015. EPIC was denied that information and was advised that the information was not even available to the Board. While EPIC later secured this information, it was not provided to EPIC until after the Board’s adoption of the regulations. Moreover, the January 2013 report focused only on landowners with ownerships between 2,500 acres and 15,000 acres, thereby ignoring a number of landowners with less than 2,500 acres who would be eligible to file a WFMP. And, reliance on the preliminary report did not provide a sufficient methodology by which to “estimate” the number of landowners. In addition to lacking actual evidence, the preliminary report as well as the ISOR failed to consider the number of landowners which could combine to file a joint WFMP.

Now the SSOR revises staff's estimate of forestland owners with ownerships between 2,500 and 15,000 acres that are eligible for a WFMP to 67, to eliminate ownerships which exist within the Southern Subdistrict of the Coast Forest District, which are specifically excluded by statute from WFMP eligibility.

However, the SSOR does not effectively address the other scenarios – which include ownerships of less than 2,500 acres and the number of ownerships which could combine to file a joint WFMP. The ISOR having ignored this issue, the SSOR now concedes, “[t]his would add an unknown number of landowners that would be eligible to apply for a WFMP.” The SSOR fails to then provide any information as to what might be the number of landowners, and instead is silent on this very significant issue.

This is significant because the WFMP regulations, as adopted by the Board on June 17, 2015, do not limit the number of Working Forest Harvest Notices [WFHN] which may be filed. Public Resources Code section 4597.11 provides that “the working forest landowner ... who plans to harvest any of the timber during a given year, shall file a [WFHN].” It does not limit the number of WFHN's which may be filed (by individual landowners who are part of one WFMP), because the statute itself does not mention multiple landowners. Permitting multiple landowners to join in a single WFMP is the invention of the Board, which we have previously challenged as lacking statutory authority. Adopted regulation section 1094.7 does not require that there be only one WFHN for each WFMP. Adopted regulation section 1094.8 does not require the WFHN to include all landowners covered by an individual WFMP. There is nothing in the adopted WFMP regulations which limits multiple landowners to submission of only one annual joint WFHN. This means, at a minimum, that there can be as many WFHN's in any “given year” as there are working forest landowners. Moreover, the adopted regulations do not define what is meant by “any given year,” so multiple notices could be staggered throughout a calendar year. The ISOR and the SSOR fail to address these scenarios, which carry potentially significant adverse impacts on the environment, timberland productivity, and business.

With the various different scenarios which may unfold in light of the lack of clarity and standards in the regulations – e.g., different landowners, different land histories and conditions, different management objectives, possibly different Registered Professional Foresters and/or Licensed Timber Operators, multiple WFHN's – it is inconceivable that, based on the regulations adopted by the Board in June, 2015, the Department will be able to assess compliance with the WFMP and satisfaction of unevenaged management and sustained yield objectives. It cannot be done, and any attempt now to bolster the record to address information deficiencies must fail. EPIC and CAG contend that the Legislature specifically intended that a WFMP would be for one ownership, not multiple ownerships. The adopted regulations, as well as this SSOR, are contrary to this intent.

### **3) Correct Documents Relied Upon.**

Government Code section 11346.2(b)(2) requires the ISOR to identify each technical document, study, report, etc. which the agency relies upon in “proposing” the regulations. As noted at the outset, any additional documents must be subject to review prior to adoption of the regulations. While the staff has provided a 15-Day Notice through issuance of the Supplemental Statement of Reasons, it does so long after-the-fact and without legitimate authority. There is no evidence that when the Board adopted the WFMP regulations on June 17, 2015, it considered the

NTMP Expansion Study. There also is no evidence that the Board even considered the Davis treatise, which the SSOR now “strike[s]” as a document relied upon, as it was not in the rulemaking file at the time of adoption. The Board’s action on June 17, 2015 was not supported by the evidence cited in the ISOR and was not supported by substantial evidence.

**4) Provide Evidence Relied Upon To Support Initial Determination of No Significant Adverse Impact on Business.**

Government Code section 11346.2(b)(5) requires the ISOR to provide the “facts, evidence, documents, testimony, or other evidence which the agency relies upon in making the initial determination that the proposed regulations will not have a significant adverse impact on business.” See also Gov’t Code § 11346.5(a)(8). The ISOR included a summary statement of the Board’s reasoning as to why it concluded there would be no significant adverse economic impact on business. It was clearly inadequate as it failed to cite any evidence.

On June 26, 2015, Board staff solicited information from the general and regulated public “relat[ing] to the impacts to business and/or employees, the impacts to small businesses, the impacts related to jobs or occupations, and the impacts on individuals” from the WFMP regulations. A copy of this request is attached hereto as Attachment B and is incorporated by reference herein. As is obvious from this request, Board staff attempted to secure the evidence required to make the determination of no economic impact – evidence which the Board should have had in advance of the June 17, 2015 adoption. This too is an attempt to bolster the record after the fact, in violation of the Government Code and CEQA, as well as the Board’s own regulations governing rulemaking.

Staff’s attempt at this post-hoc rationalization must fail. It is not only untimely, but it is dramatically insufficient. Rather than identify actual evidence, the SSOR simply states that the opinion in the ISOR “was based on contemplation, by Board staff, of the economic impact of each provision of the proposed action and relies on decades of experience that Board staff has practicing forestry in California.” This is not evidence. The so-called “decades of experience” has not been disclosed and circulated in a manner by which the public and other agencies could review and provide comment. This attempt is clearly designed to give credence to claimed expertise of the Board staff, without any substantial or other evidence to justify it.

Moreover, Board staff did receive responses to its June 26, 2015 request for economic data, which it apparently has chosen to ignore. Both EPIC and CAG submitted comments. Presumably others did as well. Staff apparently made the decision to simply ignore and not disclose the information it specifically requested for the purpose of understanding the potential economic impact associated with the WFMP regulations as adopted by the Board on June 17, 2015.

The ISOR and SSOR do not comply with the governing statutes which require disclosure of evidence in support of a determination that the WFMP regulations will not have a substantial adverse economic impact on business.

## Conclusion

The Board staff is proceeding without legal authority and in violation of the law. EPIC and CAG respectfully request that the Board staff not proceed any further with submission of the WFMP regulations as adopted by the Board on June 17, 2015, unless and until the Board of Forestry and Fire Protection comes into full compliance with its review and decision-making requirements for the WFMP regulations. As things stand as of this date, the Board improperly adopted the WFMP regulations, and staff attempts to bolster the rulemaking file after the fact further violates the law. This means that EPIC and CAG may decide that a judicial challenge is necessary. In that event, EPIC and CAG will pursue a judicial action in the public interest on behalf of their members and the general public, for which they will seek attorneys' fees and costs should they prevail. To avoid this scenario, EPIC and CAG request that the Board rescind the WFMP regulations as adopted, and take actions consistent with the Government Code, the Forest Practice Act and CEQA. EPIC and CAG remain available to discuss these issues with the Board and its staff.

Sincerely,



Rob DiPerna  
California Forest and Wildlife Advocate  
Environmental Protection Information Center

Alan Levine, Director



Coast Action Group  
126 Steiner Court  
Santa Rosa, CA 95404

Enclosures:

Attachment A: EPIC and Coast Action Group September 16, 2015 Comments

Re Necessity Statements for the Provisions Indicated In Response to Supplemental  
Statement of Reasons Issued September 1, 2015

Attachment B: Request for Economic Data, dated June 26, 2015

**Attachment A**  
**EPIC and Coast Action Group September 16, 2015 Comments**  
**Re Necessity Statements for the Provisions Indicated**  
**In Response to Supplemental Statement of Reasons**  
**Issued September 1, 2015**

895.1 - This statement is incorrect and misleading. The proposed rules are not at all clear that the WFMP is held to the same standards as other Plans.

913.11- This statement is incorrect and misleading. Including the WFMP here does not mean the WFMP will meet the objective of maximum sustained production of high quality timber products.

916.5 - This statement is incorrect and misleading. Including the WFMP here does not ensure protection of values related to watershed and aquatic habitat during implementation of the WFMP.

919.9 - This statement is incorrect and misleading. Including the WFMP here does not ensure protection of the northern spotted owls during WFMP implementation.

923 - This statement is incorrect and misleading. Including WFMP here does not inform the public and regulated community of “the two processes by which new information may be incorporated into an approved WFMP.” Including the WFMP here permits a WFMP submitter to “explain and justify” the use of “exceptions” for the submission of the WFMP.

1094 - This statement is incorrect and misleading. Including definitions does not hold the WFMP to the same standards as other Plans, and the proposed regulations lack adequate definitions.

1094.2 - This statement is incorrect and misleading. The proposed regulations lack adequate definitions, so enforcement will not be facilitated.

1094.3 (a) - This statement is incorrect and misleading. The proposed regulation fails in its necessity because it does not identify the minimum conditions required for preparation of the WFMP.

1094.6 - This statement is incorrect and misleading. This section outlines the “contents of the WFMP” - it is not for informing the public of the “purpose” of the WFMP.

1094.6 (g - i) - This statement is incorrect and misleading. These subsections are not needed to allow evaluation of the “accuracy of the inventory and projected growth and yield.” They do not do that. These subsections do not require disclosure of the estimated inventory and the method by which the estimate was derived. Nor do they require disclosure of which models were used, or

a statement of expected accuracy. As noted in earlier comments, the proposed rules fail to adequately require LTSY and define terms related thereto.

1094.6 (j)(option 1 & 2) - This statement is incorrect and misleading. The Board adopted Option 2, so a necessity statement for Option 2 appears moot. Neither of these options meet the Basin Plan or California's Porter-Cologne standards. Further, what is necessary is to determine potentially significant impacts, not only impacts which "will" have a significant impact on water quality.

1094.6 (k) - This statement is incorrect and misleading. Because this subsection does not require any attempt to determine what unique areas may exist, any "disclosure" can be limited to only what a plan submitter cares to notice, rather than what actually may be determined to exist with proper investigation.

1094.6 (m) - This statement is incorrect and misleading. Without requiring a proper investigation to locate such species, this subsection does not require disclosure of the presence of such species.

1094.6 (n) - This statement is incorrect and misleading. As previously submitted comments identify, this subsection lacks definition as to what constitutes a "LTSY plan." It also is not clear at all how the information identified here will permit an evaluation of the expected impacts associated with implementation of the WFMP for each Management Unit.

1094.6 (o) - This statement is incorrect and misleading. This subsection does not "prevent the degradation of habitat..." It simply requires an "assessment" which "addresses" protected species and their habitat and constraints to timber management. While it does require the WFMP to include feasible measures to avoid or reduce impacts, it does not "prevent" degradation.

1094.6 (p) - This statement is incorrect and misleading. This subsection does not "obligate" periodic capital outlays by the Working Forest Landowner. All it says is that the RPF has explained to the Landowner that there may be ongoing investments required.

1094.6 (q) - This statement is incorrect and misleading. This subsection does not require a periodic update of inventory sampling and analysis of LTSY; all it says is the WFMP "shall describe a schedule."

1094.6 (r) - This statement is incorrect and misleading. This subsection does not prevent the degradation of cultural and historical resources because, like other provisions, it does not require any investigation to determine what resources exist.

1094.6 (s) - This statement is incorrect and misleading. It is misleading to suggest that this subsection is necessary to evaluate the impacts of other uses, when the provision simply requires disclosure of the timberland conversion permit, without any information that would enable actual

evaluation of the impacts of the timberland conversion.

1094.6 (t) - This statement is incorrect and misleading. Information about ongoing timber harvesting activities is necessary to understand not only baseline conditions, as the statement indicates. but also to understand the cumulative impacts associated with timber operations.

1094.6 (u) - This statement is incorrect and misleading. The correct standard is whether the implementation of the WFMP “may” have a significant impact on the beneficial uses of water, not whether it “will” have these impacts. Additionally, impacts on beneficial uses of water are not correctly assessed if potential sources of pollutants are not assessed and controlled.

1094.6 (v) - This statement is incorrect and misleading. The correct standard is whether the implementation of the WFMP “may” have a significant impact - not whether it “will” have a significant impact. The subsection here refers only to “site preparation standards and stocking standards,” so it is not sufficient to do as the statement reads, e.g. to evaluate significant impact on productivity of timberlands. Productivity is more than site preparation and stocking.

1094.6 (x) - This statement is incorrect and misleading. This subsection does not yield information needed to evaluate cumulative effects of the WFMP operations. Cumulative effects, by definition, go beyond the limited “successive management activities associated with implementation of the WFMP.” Moreover, cumulative effects may impact more than just “public trust resources.”

1094.6 (y) - This statement is incorrect and misleading. Making a copy of the rules available does not in any way mean that the Working Forest Landowner is knowledgeable of the rules. Moreover, without knowing the potential total acreage to be covered by WFMPs from multi-ownership, this provision does not provide any mechanism by which to assess impacts of approving multi-ownership combinations for unknown forestland acreages that would not be subject to future changes in the rules.

1094.6 (z & aa) - This statement is incorrect and misleading. These subsections require the WFMP to “explain” and “justify” certain practices for operating on steep and unstable slopes and cable yarding, which are outside of existing standard rule provisions. The statement of necessity ignores this language, creating an entirely different standard to simply evaluate whether implementation adequately mitigates potential significant impacts from ground based operations on steep or unstable slopes and in areas designated for cable logging.” This is insufficient. As noted elsewhere, the failure to require an actual assessment of potential sources of sediment creates a potential impact to beneficial uses which has not been adequately evaluated and mitigated.

1094.6 (bb) - This statement is incorrect and misleading. In the absence of having to assess potential sources of sediment, disclosure of a winter period operating plan fails to provide

sufficient information to evaluate whether the implementation of the WFMP adequately mitigates potential significant impacts from winter operations. And the lack of such assessment means there can be a potential impact to beneficial uses.

1094.6 (cc) - This statement is incorrect and misleading. This subsection requires the WFMP to “explain” and “justify” the use of landings and other structures in protected watercourse zones. The statement of necessity ignores this standard, and substitutes language to evaluate whether the implementation adequately mitigates potential significant impacts to watercourses. This is insufficient, and as noted elsewhere, the failure to assess potential sources of sediment creates a potential impact to beneficial uses which has not been adequately evaluated and mitigated.

1094.6 (dd - ff) - By contrast to other statements, here the necessity statement actually recognizes the “explain” and “justify” standard.

1094.6 (gg) - This statement is incorrect and misleading. The rule identifies measures which are to be provided as part of the WFMP content. They are not identified as “mitigations.” The statement of necessity is therefore incorrect.

1094.6 (ii) - This statement is incorrect and misleading. This subsection does not require description of “aquatic resources”; it only requires description of lakes, wet meadows and other wet areas. The statement is incorrect to the extent it claims this provision will allow evaluation of what aquatic resources may be at risk from WFMP implementation.

1094.6 (jj) - This statement is incorrect and misleading. The statement of necessity assumes that “programmatically ways” will be utilized, even though the subsection merely provides the option for use of different standards on steep and unstable slopes and within protected watercourse areas. Further, the subsection actually does not delineate how these “programmatically ways” will be “treated during implementation.” This statement of necessity fails to support the subsection. And, as noted earlier, the failure to assess potential sources of sediment related to these “programmatically ways” may cause a potential impact to beneficial uses which remains unaddressed.

1094.6 (kk) - This statement is incorrect and misleading. The statement of necessity provides that landowners are “specifically sensitive about disclosing growth and yield data.” Yet, this information is elemental for the WFMP and the claims of disclosure outlined elsewhere in the Supplemental Statement of Reasons. The claim of proprietary information to defeat public review and comment goes against the fundamental rights of public and other agency review. It is not legitimate to expect the public to rely solely on CalFire’s statement of LTSY compliance. The statement of necessity is unfounded.

1094.8 - This section is intended to do far more than merely create the “expectation” that the WFHN will be readily available for public inspection and deviations must be approved prior to

submission of a WFHN. In fact, the section requires that the WFHN be available for these purposes. This statement of necessity is misleading and incorrect.

1094.8 (g) - This statement is incorrect and misleading. This subsection does not “ensure protection” of archaeological resources during implementation of the WFHN. As previous comments noted, the subsection fails to provide for an actual survey or investigation to determine what resources are present, so it cannot be claimed that this subsection is needed to ensure protection, as the subsection does not ensure protection.

1094.8 (h) - This statement is incorrect and misleading. This subsection does not “ensure protection” of sensitive plant and animal species during implementation of the WFHN. As previous comments noted, the subsection fails to provide for an actual survey or investigation to determine what sensitive plant and animal species are present, so it cannot be claimed that this subsection is needed to ensure protection, as the subsection does not ensure protection.

1094.8 (k) - This subsection does not require “disclosure of unique areas” as stated. Rather, it merely requires that the WFHN identify what provisions are included to protect unique areas. There is no duty, however, to conduct a survey or investigation to determine what unique areas may exist. Thus, this statement is misleading and incorrect.

1094.8 (l) - This subsection requires disclosure of the expected dates of commencement and completion of timber operations during the year. The statement of necessity advises this information is needed “for compliance and enforcement.” No further explanation is provided. It is unclear how the dates of operation are need to ensure compliance and enforcement. This statement lacks clarity and specificity.

1094.8 (m) - This statement is incorrect and misleading. This statement presumes that the WFMP protects public trust resources, which EPIC and Coast Action Group dispute. And, because it is very unclear how the Department will deal with multiple landowners under one WFMP, and multiple WFHN in any given year for multiple landowners under any given WFMP, this statement of necessity fails to establish how the operations will provide adequate protection for public trust resources as the Forest Practice Rules evolve over time.

1094.8 (s) - This statement is incorrect and misleading. Providing a description of Lakes, Wet Meadows and Other Wet Areas does not ensure that potential impacts from operations to beneficial uses of water have been adequately addressed. As noted previously, the failure to assess potential sources of sediment may result in an impact to beneficial uses which has not been adequately evaluated and mitigated.

1094.8 (t) - This statement is incorrect and misleading. The statement of necessity assumes that “programmatic ways” will be utilized, even though the subsection merely provides the option for use of different standards on steep and unstable slopes and within protected watercourse areas.

Further, the subsection actually does not delineate how these “programmatically ways” will be “treated during implementation.” This statement of necessity fails to support the subsection. And, as noted earlier, the failure to assess potential sources of sediment related to these “programmatically ways” may cause a potential impact to beneficial uses which have not been adequately evaluated and mitigated.

1094.8 (u) - This statement is incorrect and misleading. This statement of necessity advises that the map will give a “clear depiction of the locations where operations will occur, and allows for an evaluation of the surrounding environmental conditions that may be impacted by these operations.” While the subsection does require mapping of many features of the proposed WFHN operations, it does not require mapping of all features. For example, it does not require mapping of operations which may be covered by other WFHN’s from previous years or from other WFMP landowners. It cannot be said that as a matter of course such information allows for “evaluation of surrounding environmental conditions,” because the subsection does not require mapping of “surrounding environmental conditions” - it only requires mapping of features specific to the WFHN.

1094.8 (w) - The statement of necessity provides that landowners are “specifically sensitive about disclosing growth and yield data.” Yet, this information is elemental for the WFMP and the claims of disclosure outlined elsewhere in the Supplemental Statement of Reasons. The claim of proprietary information to defeat public review and comment goes against the fundamental rights of public and other agency review. It is not legitimate to expect the public to rely solely on CAL FIRE’s statement of LTSY compliance. The statement of necessity is unfounded and misleading.

1094.9 - This section says nothing about “serv[ing] the interests of the Working Forest Landowner,” as the statement of necessity reads. As such, this statement is incorrect and misleading.

1094.10 (a) - This statement of necessity refers on the “owner” of the plan, advising there is a singular owner of any one WFMP. Elsewhere, the Supplemental Statement of Reasons indicates that there may be multiple owners of any one WFMP. This statement of necessity is misleading.

1094.17(a) - This subsection is one of the most convoluted provisions in the entire rule package. It has public review commence upon “receipt,” which can be up to 30 or 40 days prior to the filing of the WFMP. This deprives the public of a meaningful time frame in which to review the WFMP as “filed.” Moreover, it then provides various review period provided for the acreage covered by the WFMP. This places the burden on the public to keep checking to find out status of the WFMP, instead of providing clear time frames which would allow for comprehensive review of the filed WFMP. The subsection fails to take into account the complexity inherent when multiple owners submit one WFMP. The statement is therefore misleading and inaccurate to the extent it claims these time frames provide “adequate time to fully comprehend” the WFMP contents.

1094.17 (e) - The subsection does not provide an “appeals process.” It permits the Working Forest Landowner(s) to request a “hearing,” not an “appeal.” We raised this issue during comment, fully expecting the Board to clean up its language. It did not. As such, this statement is misleading.

1094.18 - While the use of the Interdisciplinary Review team is necessary because of many other agencies have expertise and jurisdiction over public trust resources that may be impacted by timber operations, we disagree that this process brings a level of efficiency for separate permits which may be required by those other agencies. The process under the Forest Practice Act for review and approval of timber operations does not encompass all review and decision-making for all other agencies; other agencies have distinct processes by which they are entitled to conduct independent review. To the extent this statement suggests otherwise, it is incorrect and misleading.

1094.19 - This section defines how the Department may find that the WFMP is not in conformance with the Board rules and regulations. The statement of necessity fails to clearly state this. Instead, it focuses only on how the WFMP may be modified and brought into a condition where it can be approved. As such, it is misleading and incorrect.

1094.21 - This section requires, among other things, that a Notice of Conformance for a WFMP “shall include a written response” of the Director to significant environmental points raised during the evaluation process. The statement of necessity incorrectly reads that the written response will provide a “rationale” with which the Director “rejects those [significant environmental] points.” The purpose of the response to comments is to “respond,” not to “reject” comments. Often the Director accepts or reject comments, by going through a process of discussion with the plan submitter to address concerns. The response to comments for the WFMP should be no different. Accordingly, the statement of necessity is incorrect and misleading.

1092.23(a) - This subsection does not provide any “performance standards” as the statement of necessity indicates. As such, the statement of necessity is incorrect and misleading.

1094.27 (a) - This statement is incorrect and misleading. This subsection requires filing a report of stocking within five (5) years after completion of timber operations under a WFHN. Section 1094.5 (b) does not require that all operations under a WFHN be completed within a year, or any other specified time frame. It simply requires annual notices of what has been completed. Without a clear time frame, it is misleading and incorrect to claim that filing a report of stocking to satisfy minimum stocking standards ensures maintenance of the productivity of timberlands in California. Moreover, the WFMP is intended to provide “increased productivity of timberland,” Pub. Res. Code § 4597(a)(3), so merely ensuring that timberland productivity is “maintained” fails to meet the intend and purpose of the WFMP.

1094.29 (a) - This statement of necessity is misleading and incorrect. The subsection does not establish a “reasonable time period” for the public to submit comments. As previous comments as advised, the process the Board adopted in this section violates Public Resources Code section 4597.12 by failing to provide the public with the time and opportunity to review the Plan Summary and actual 5-Year Review.

1094.29 (b) - This statement of necessity is misleading and incorrect. The subsection does not identify what “specifically will be subject to review” as part of the 5-Year Review of the “plan summary.” Nor is it clear “who may participate” in any meeting concerning the 5-Year Review or plan summary. Moreover, requiring that the plan summary be accessible to the public does not ensure that the public will be reasonably informed of that part of the process, as it is entirely unclear from the section how and when the plan summary is to be made accessible.

1094.29 (c) - This statement of necessity is misleading and incorrect. The language of the subsection permits review of information that goes beyond the “content and procedures agreed to in the approved WFMP,” to include not only information about “episodic events” but also any other information requested of the WFMP landowner(s). As such, the scope of the review is not limited. Moreover, by law the public is entitled to review and comment on the 5-year Review and plan summary, thus providing more information which the Department must consider in its review. Finally, the subsection does not state that the information about “episodic events” is needed to determine if “significant changes to growth and yield assumptions of the WFMP” have occurred. Episodic events can influence many conditions impacted a host of natural and public trust resources.

1094.29 (f) - The statement of necessity is misleading and incorrect. As earlier comments advised, the process for the 5-Year Review embodied in section 1094.29 does not provide “transparency in the review process and allow the public to be informed on the performance of the WFMP.”

1094.29 (g) - The statement of necessity provides that landowners are “specifically sensitive about disclosing growth and yield data.” Yet, this information is elemental for the WFMP and the claims of disclosure outlined elsewhere in the Supplemental Statement of Reasons. The claim of proprietary information to defeat public review and comment goes against the fundamental rights of public and other agency review. It is not legitimate to expect the public to rely solely on CAL FIRE’s statement of LTSY compliance. The statement of necessity is unfounded and misleading.

1094.30 (a - c) - This statement of necessity is as misleading as the subsections themselves. Here, the language presumes that there may be more than one forestland owner covered by a single WFMP. Accordingly, any one working forest landowner may be in the position of transferring its ownership interest to another. Yet, subsection (c) permits the Department to cancel the entire WFMP, even though the failure to assume responsibilities may be related to only one of the landowners covered by the WFMP. The Board did not comply with the statute

when it permitted this kind of confusion, and the statement of necessity furthers that noncompliance.

1094.30 (d) - This statement of necessity is misleading and incorrect. Identifying a “Designated Agent” does not solve assessment and management problems. A Designated Agent is not given authority to “solve assessment and management problems.” For the most part, the Designated Agent files or provides copies of documents. See e.g., §§ 1094.7, 1094.10, 1094.14, 1094.23, 1094.25, and 1094. 27. The Designated Agent has an otherwise limited role: (1) to confer with the Department at the time of the 5-Year Review to try and reach agreement on conditions necessary to bring WFMP operations into compliance, 1094.29(d); and (2) may appeal cancellation of the WFMP, 1094.31(b).

1094.31 (b) - This statement of necessity is misleading and not accurate because the subsection does not “prevent operations that do not meet the objectives of uneven aged management.” The subsection does not delineate how the Department would determine that “the objectives of Unevenaged Management and Sustained Yield are not being met.” As earlier comments outlined, the rules (now adopted by the Board) do not even require a statement of these objectives in the WFMP, and have no mechanism by which to ensure that these objectives are stated and satisfied. Thus, reference to these core provisions in a provision for WFMP cancellation is insufficient.

**BOARD OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246  
SACRAMENTO, CA 94244-2460  
Website: [www.bof.fire.ca.gov](http://www.bof.fire.ca.gov)  
(916) 653-8007



June 26, 2015

Following is a request for information.

Attached is rule text for which information is being gathered on the economic impact associated with the Working Forest Management Plan (WFMP) that the Board of Forestry and Fire Protection adopted during their normally scheduled meeting on June 17<sup>th</sup>, 2015. Once approved by the Office of Administrative Law (OAL) it is anticipated it will be available for use in 2016. The regulation will be submitted to the OAL in 2015 and will be supported by the information that you provide.

Specifically, the following questions relate to the impacts to business and/or employees, the impacts to small businesses, the impacts related to jobs or occupations, and the impacts on individuals.

1. How many eligible landowners will submit a WFMP? In 2015? In 2016? In 2017? In 2018?
2. What type of businesses will be impacted (e.g. forestry consulting entities)? Will any other type of business be impacted?
3. How many businesses will be impacted?
4. What percentage of those are small businesses (independently owned and operated, not dominant in their field of operations and having annual gross receipts less than \$1,000,000)?
5. How many, if any, businesses will be created? If so, what type?
6. How many jobs, if any, will be created? If so, what type?
7. How much will it cost a landowner to have a RPF (including biologists etc.) prepare a WFMP? (range based on project area, topography, brush, size of trees and number of trees)
8. How much will it cost a landowner to have a LTO execute the WFMP (e.g. \$/MBF)? (range based on project area, topography, brush, size of trees and number of trees)
9. Regarding the benefits, beneficial effects upon the environment could be related to fire resiliency, habitat, aesthetics, carbon sequestration and decreased conversion. What other beneficial effects upon the environment are anticipated?

10. What is the economic benefit to the landowner, how much might a landowner make from the sale of the timber/biomass? (range based on project area, distance to a processing facility, topography, brush, species, size of trees and number of trees)

Thank you for your help and please don't feel you have to answer all these questions; any information you can provide, prior to submission to OAL, will be put to use. Also, none of the information you provide will be attached to your Company name. Please email any response to [matt.dias@bof.ca.gov](mailto:matt.dias@bof.ca.gov) or to via U.S. Mail to:

Matt Dias

Assistant Executive Officer

P.O. Box 944246

Sacramento, CA. 94244-2460

Thank you and have a good weekend.

Matt Dias

State Board of Forestry and Fire Protection

1 Board of Forestry and Fire Protection  
2 "Working Forest Management Plan"  
3

4 Title 14 of the California Code of Regulations (14 CCR),  
5 Division 1.5, Chapter 4, Subchapter 1, Article 1; Subchapters 4, 5 & 6,  
6 Articles 3, 6, 9, 13 and 14; Subchapter 7, Articles 2, 6.5, 6.95 and 7. Title 14 of the  
7 California Code of Regulations (14 CCR),  
8 Division 1.5, Chapter 4.5.

9 **Amend:**

10	§ 895	Abbreviations Applicable Throughout Chapter
11	§ 895.1	Definitions
12	§ 913.11 [933.11, 953.11]	Maximum Sustained Production of High Quality
13		Timber Products
14	§ 916.5 [936.5, 956.5]	Procedures for Determining Watercourse and Lake
15		Protection Zone (WLPZ) Widths and Protective
16		Measures
17	§ 919.9 [939.9]	Northern Spotted Owl
18	§ 923 [943, 963]	Intent for Logging Roads, Landings, and Logging
19		Road Watercourse Crossings
20	§923.2 [943.2, 963.2]	Design and Location of Logging Roads and Landings
21	§ 923.3 [943.3, 963.3]	Mapping and Identification of Logging Roads and
22		Landings
23	§ 923.4 [943.4, 963.4]	Construction and Reconstruction of Logging Roads
24		and Landings
25	§ 923.5 [943.5, 963.5]	Erosion Control for Logging Roads and Landings

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§ 923.9 [943.9, 963.9]	Watercourse Crossings
§ 929 [949, 969]	Statement of Purpose
§ 945.1	Statement of Purpose
§ 1038	Exemption
§ 1090.26	Change of Ownership <u>Timberland Owner(s)</u>
§ 1104.1	Conversion Exemptions
§ 1115.3	Conduct of Hearing
“Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings” (1 <sup>st</sup> Edition, revised 04/21/15)	
<u>Adopt:</u>	
<u>§ 1090.28</u>	<u>State Restoration Projects</u>
<u>Article 6.95</u>	<u>Working Forest Management Plan Administration</u>
<u>§ 1094</u>	<u>Rule Application</u>
<u>§ 1094.1</u>	<u>Working Forest Management Plan and Working Forest Harvest Notice Filing Locations</u>
<u>§ 1094.2</u>	<u>Definitions</u>
<u>§ 1094.3</u>	<u>WFMP Submittal and Notice of Preparation</u>
<u>§ 1094.4</u>	<u>Notice of Preparation-Distribution by the Director</u>
<u>§ 1094.5</u>	<u>Request for Notification of WFMP or Working Forest Harvest Notice Submission</u>
<u>§ 1094.6</u>	<u>Contents of WFMP</u>
<u>§ 1094.7</u>	<u>Working Forest Harvest Notice</u>
<u>§ 1094.8</u>	<u>Working Forest Harvest Notice Content</u>

1	<u>§ 1094.9</u>	<u>WFMP Professional Judgment</u>
2	<u>§ 1094.10</u>	<u>Plan Submitter(s) Responsibility</u>
3	<u>§ 1094.11</u>	<u>Registered Professional Foresters Responsibility</u>
4	<u>§ 1094.12</u>	<u>Interaction Between RPF and LTO on Working Forest</u>
5		<u>Harvest Notice</u>
6	<u>§ 1094.13</u>	<u>Licensed Timber Operator Responsibilities</u>
7	<u>§ 1094.14</u>	<u>Notification of Commencement of Operations</u>
8	<u>§ 1094.15</u>	<u>Notice of WFMP Filing</u>
9	<u>§ 1094.16</u>	<u>Agency and Public Review of the WFMP</u>
10	<u>§ 1094.17</u>	<u>Director's Determination</u>
11	<u>§ 1094.18</u>	<u>Review Teams to be Established to Review WFMP</u>
12	<u>§ 1094.19</u>	<u>Nonconformance of WFMP</u>
13	<u>§ 1094.20</u>	<u>Conformance of WFMP</u>
14	<u>§ 1094.21</u>	<u>Notice of Conformance of WFMP</u>
15	<u>§ 1094.22</u>	<u>Public Inspection</u>
16	<u>§ 1094.23</u>	<u>Substantial Deviations</u>
17	<u>§ 1094.24</u>	<u>Report of Minor Deviations</u>
18	<u>§ 1094.25</u>	<u>Report of Completion of Work Described in WFMP;</u>
19		<u>Partial Completion Report</u>
20	<u>§ 1094.26</u>	<u>Inspection of Completed Work</u>
21	<u>§ 1094.27</u>	<u>Stocking Report and Minimum Stocking Standards</u>
22	<u>§ 1094.28</u>	<u>Inspection of Stocking</u>
23	<u>§ 1094.29</u>	<u>Five (5) Year Review of WFMP</u>
24	<u>§ 1094.30</u>	<u>Change of Timberland Owner(s)</u>
25	<u>§ 1094.31</u>	<u>Cancellation of Plans</u>



1 1092.1.

2 (d) Working Forest Management Plan (WFMP) as described in PRC § 4597.1\*\*\*\*\*

3  
4 \*\*\*\*\*Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4561.6, 4562, 4562.5,  
5 4562.7 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4525.5, 4525.7,  
6 4526, 4551, 4551.5, 4561, 4561.6, 4562, 4562.5, 4562.7, 4583.2, 4591.1, 4597.1, 21001(f),  
7 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed  
8 following Section 15387 of Title 14 Cal. Code of Regulations), *Laupheimer v. State* (1988) 200  
9 Cal.App.3d 440; 246 Cal.Rptr. 82 and *Joy Road Area Forest and Watershed Association v.*  
10 *California Department of Forestry & Fire Protection*, Sonoma County Superior Court No. SCV  
11 229850.\*\*\*\*\*

12  
13 **913.11 [933.11, 953.11] Maximum Sustained Production of High Quality Timber Products**

14 \*\*\*\*\*The goal of this section is to achieve Maximum Sustained Production of High Quality  
15 Timber Products (MSP). MSP is achieved by meeting the requirements of either (a) or (b) or (c)  
16 in a THP, SYP or NTMP, or as otherwise provided in Article 6.8, Subchapter 7.

17 (a) Where a Sustained Yield Plan (14 CCR § 1091.1), a ~~or~~ Nonindustrial Timber  
18 Management Plan (NTMP), or a Working Forest Management Plan (WFMP) has not been  
19 approved for an ownership, MSP will be achieved by:\*\*\*\*\*

20 \*\*\*\*\* (b) Where a SYP, ~~or~~ NTMP, or WFMP is submitted for an ownership, an approved  
21 SYP ~~or~~ NTMP, or WFMP achieves MSP by providing sustainable harvest yields established by  
22 the landowner which will support the production level of those high quality timber products the  
23 landowner selects while at the same time:\*\*\*\*\*

24 \*\*\*\*\* (c) In a THP, ~~or~~ NTMP, or WFMP, MSP is achieved by:\*\*\*\*\*

1 \*\*\*\*\*Note: Authority cited: Sections 4551 and 4554.5, Public Resources Code. Reference:  
2 Sections 4513, 4551.5, 4561, 4597 and 21080.5, Public Resources Code.\*\*\*\*\*

3  
4 **916.5 [936.5, 956.5]**

5 \*\*\*\*\***(e)** The letter designations shown in the "Protective Measures and Widths" column in Table  
6 I correspond to the following:\*\*\*\*\*

7 \*\*\*\*\***"B"** WLPZ shall be clearly identified on the ground by an RPF or supervised  
8 designee, with paint, flagging, or other suitable means, prior to the start of timber operations. In  
9 watersheds with listed anadromous salmonids, on the ground identification of the WLPZ shall be  
10 completed prior to the preharvest inspection. For all nonindustrial timber management  
11 plans and Working Forest Management Plans, sample identification of the WLPZ prior to the  
12 preharvest inspection may be allowed. The sample shall be based upon a field examination  
13 and be consistent with the applicable provisions of 14 CCR §§ 916.4 [936.4, 956.4] and 916.5  
14 [936.5, 956.5], representing the range of conditions found within the WLPZ. The Director shall  
15 determine if the sample identification is adequate for plan evaluation during the preharvest  
16 inspection. If sample identification is allowed, the remaining WLPZ shall be identified by an  
17 RPF or supervised designee prior to the start of timber operations within or adjacent to the  
18 WLPZ. The RPF shall notify the Department when the WLPZ has been identified.\*\*\*\*\*

19 \*\*\*\*\***"D"** To ensure retention of shade canopy filter strip properties of the WLPZ and the  
20 maintenance of a multi-storied stand for protection of values described in 14 CCR § 916.4(b)  
21 [936.4(b), 956.4(b)], residual or harvest trees shall be marked, including a base mark below the  
22 cut-line within the WLPZ by the RPF, or supervised designee. Outside of watersheds with listed  
23 anadromous salmonids, sample marking prior to the preharvest inspection is satisfactory in  
24 those cases where the Director determines it is adequate for plan evaluation. When sample  
25 marking has been used, the remaining WLPZ shall be marked in advance of falling operations

1 by the RPF, or supervised designee. In watersheds with ~~threatened or impaired values~~ listed  
2 anadromous salmonids, trees shall be marked in advance of the preharvest inspection. For all  
3 nonindustrial timber management plans and Working Forest Management Plans, sample  
4 marking of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be  
5 based upon a field examination and shall be consistent with the applicable provisions of 14 CCR  
6 §§ 916.4 [936.4, 956.4] and 916.5 [936.5, 956.5], representing the range of conditions found  
7 within the WLPZ. The Director shall determine if the sample mark is adequate for plan  
8 evaluation during the preharvest inspection. If sample marking is allowed, the remaining WLPZ  
9 shall be marked by an RPF, or supervised designee, prior to the start of timber operations within  
10 or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been  
11 identified.

12 "E" To ensure retention of shade canopy filter strip properties of the WLPZ and the  
13 maintenance of a multi-storied stand for protection of values described in 14 CCR § 916.4(b)  
14 [936.4(b), 956.4(b)], residual or harvest trees shall be marked, including a base mark below the  
15 cut line, within the WLPZ by the RPF or supervised designee. Outside of watersheds with listed  
16 anadromous salmonids, tree marking shall be done prior to timber falling operations. In  
17 watersheds with listed anadromous salmonids, trees shall be marked in advance of the  
18 preharvest inspection. For all nonindustrial timber management plans and Working Forest  
19 Management Plans, sample marking of the WLPZ prior to the preharvest inspection may be  
20 allowed. The sample shall be based upon a field examination and shall be consistent with the  
21 applicable provisions of 14 CCR §§ 916.4 [936.4, 956.4] and 916.5 [936.5, 956.5], representing  
22 the range of conditions found within the WLPZ. The Director shall determine if the sample mark  
23 is adequate for plan evaluation during the preharvest inspection. If sample marking is allowed,  
24 the remaining WLPZ shall be marked by an RPF or supervised designee prior to the start of  
25 timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when

1 the WLPZ has been identified. \*\*\*\*\*

2  
3 \*\*\*\*\*Note: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code.

4 Reference: Sections 4513, 4551.5, 4597 and 21001(f), Public Resources Code; Sections 100,  
5 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F). \*\*\*\*\*

6  
7 **919.9, 939.9 Northern Spotted Owl [Coast, Northern]**

8 \*\*\*\*\*Every proposed timber harvesting plan, NTMP, WFMP, conversion permit, Spotted Owl  
9 Resource Plan, or major amendment located in the Northern Spotted Owl Evaluation Area or  
10 within 1.3 miles of a known northern spotted owl activity center outside of the Northern Spotted  
11 Owl Evaluation Area shall follow one of the procedures required in subsections (a)-(g) below for  
12 the area within the THP boundary as shown on the THP map and also for adjacent areas as  
13 specified within this section. The submitter may choose any alternative (a)-(g) that meets the  
14 on-the-ground circumstances. The required information shall be used by the Director to  
15 evaluate whether or not the proposed activity would result in the "take" of an individual northern  
16 spotted owl. \*\*\*\*\*

17 \*\*\*\*\*Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513,  
18 4551.5, 4582.75, 4583, and 4597 Public Resources Code; and 50 CFR 17.11. \*\*\*\*\*

19  
20 **923 [943, 963] Intent for Logging Roads, Landings, and Logging Road Watercourse**  
21 **Crossings.**

22 \*\*\*\*\* (c) The RPF may propose exceptions to the rules of this Article if explained and justified in  
23 the plan and found by the Director not to result in a significant adverse impact on the  
24 environment.

1 (d) Exceptions may also be provided through application of Fish and Game Code Section 1600  
2 et seq. and shall be made an enforceable part of the plan in accordance with 14 CCR §§ 1039,  
3 1040, 1090.14, 1092.26, ~~or 1092.27~~, 1094.23, or 1094.24, as appropriate.\*\*\*\*\*

4 \*\*\*\*\*Note: Authority cited: Sections 4551, 4551.5, 4553 and 4562.5, Public Resources Code.  
5 Reference: Sections 4512, 4551.5, 4562.5 and ~~4562.7~~, and 4597 Public Resources Code;  
6 and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959,  
7 131 Cal. Rptr. 172.\*\*\*\*\*

### 8 **923.2 [943.2, 963.2] Design and Location of Logging Roads and Landings**

9 \*\*\*\*\* (a) All logging roads and landings shall:

10 (1) Avoid or mitigate potential impacts to public safety.

11 (2) Avoid unstable areas and connected headwall swales to the extent feasible and  
12 minimize activities that adversely affect them.

13 (3) Minimize the size of cuts and fills to the extent feasible.

14 (4) Be outsloped where feasible and drained with waterbreaks and/or rolling dips in  
15 conformance with other applicable Forest Practice Rules.

16 (5) Be hydrologically disconnected from watercourses and lakes to the extent feasible to  
17 minimize sediment delivery from road runoff to a watercourse, and reduce the potential for  
18 hydrologic changes that alter the magnitude and frequency of runoff delivery to a watercourse.

19 Guidance on methods for hydrologic disconnection may be found in "Board of Forestry  
20 Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage,  
21 Minimization of Diversion Potential, and High Risk Crossings" (~~1st Edition, revised~~  
22 10/27/14) (1st Edition, revised 04/21/15), hereby incorporated by reference.

23 (6) Include adequate drainage structures and facilities necessary to avoid concentrating  
24 and diverting runoff, to minimize erosion of roadbeds, landing surfaces, drainage ditches,

1 sidecast and fills, to minimize the potential for soil erosion and sediment transport, and to  
2 prevent significant sediment discharge. Guidance on methods for conformance with this rule  
3 section may be found in “Board of Forestry Technical Rule Addendum Number 5: Guidance on  
4 Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk  
5 Crossings” (~~1st Edition, revised 10/27/14~~) (1st Edition, revised 04/21/15), hereby incorporated  
6 by reference. \*\*\*\*\*

7  
8 \*\*\*\*\*Note: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference:  
9 Sections 4512, 4513, 4551, 4551.5, 4562.5, ~~and 4562.7~~, and 4597 Public Resources Code; 33  
10 USC 1288(b); and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59  
11 Cal.App.3d 959, 131 Cal. Rptr. 172.\*\*\*\*\*

### 13 **923.3 [943.3, 963.3] Mapping and Identification of Logging Roads and Landings**

14 \*\*\*\*\*The following mapping and identification standards shall apply to logging roads and  
15 landings:

16 (a) For logging road- and landing-related mapping requirements refer to 14 CCR §§  
17 1034(x)(4)(A)-(E) and (5)(A)-(G), 1090.5(w)(4)(A)-(E) and (5)-(6), 1090.5(gg), 1090.7(n)(4)-  
18 (6), ~~and 1092.09(l)(5)(A)(1.-5.) and (6)(A)-(G)~~, and 1094.6(e)(11), (15) - (16) and  
19 1094.6(e)(4)(A) – (E).\*\*\*\*\*

20 \*\*\*\*\*Note: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference:  
21 Sections 4512, 4513, 4551, 4551.5, 4562.5, ~~and 4562.7~~, and 4597 Public Resources Code; 33  
22 USC 1288(b); and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59  
23 Cal.App.3d 959, 131 Cal. Rptr. 172.\*\*\*\*\*

1 **923.4 [943.4, 963.4] Construction and Reconstruction of Logging Roads and Landings**

2 \*\*\*\*\*Logging roads and landings shall be constructed or reconstructed in accordance with the  
3 approved plan and the following requirements. If a change in designation of logging road  
4 classification is made after the plan is approved, the change shall be reported in accordance  
5 with 14 CCR §§ 1039, 1040, 1090.14, 1092.26, ~~or 1092.27~~, 1094.23 or 1094.24 as appropriate.

6 (a) Logging roads and landings shall be hydrologically disconnected from watercourses  
7 and lakes to the extent feasible to minimize sediment delivery from road runoff to a watercourse,  
8 and reduce the potential for hydrologic changes that alter the magnitude and frequency of runoff  
9 delivery to a watercourse. Guidance on methods for hydrologic disconnection may be found in  
10 “Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic  
11 Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk  
12 Crossings” (~~1st Edition, revised 10/27/14~~) (1st Edition, revised 04/21/15), hereby incorporated  
13 by reference. \*\*\*\*\*

14  
15 \*\*\*\*\*Note: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference:  
16 Sections 4512, 4513, 4551, 4551.5, 4562.5 ~~and 4562.7~~, and 4597 Public Resources Code; 33  
17 USC 1288(b); and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59  
18 Cal.App.3d 959, 131 Cal. Rptr. 172.\*\*\*\*\*

19  
20 **923.5 [943.5, 963.5] Erosion Control for Logging Roads and Landings**

21 \*\*\*\*\*The following erosion control standards shall apply to logging roads and landings:

22 (a) All logging road and landing surfaces shall be adequately drained through the use of  
23 logging road and landing surface shaping in combination with the installation of drainage  
24 structures or facilities and shall be hydrologically disconnected from watercourses and lakes to  
25 the extent feasible. Guidance on methods for hydrologic disconnection may be found in “Board

1 of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road  
2 Drainage, Minimization of Diversion Potential, and High Risk Crossings” ~~(1st Edition, revised~~  
3 ~~10/27/14)~~ (1st Edition, revised 04/21/15), hereby incorporated by reference.\*\*\*\*\*

4 \*\*\*\*\*(g) Where outsloping and rolling dips are used to control surface runoff, the dip in  
5 the logging road grade shall be sufficient to capture runoff from the logging road surface. The  
6 steepness of cross-slope gradient in conjunction with the logging road or landing gradient and  
7 the estimated soil erosion hazard rating shall be used to determine the rolling dip spacing in  
8 order to minimize soil erosion and sediment transport and to prevent significant sediment  
9 discharge. Guidance on rolling dip spacing may be found in “Board of Forestry Technical Rule  
10 Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of  
11 Diversion Potential, and High Risk Crossings” ~~(1st Edition, revised 10/27/14)~~ (1st Edition,  
12 revised 04/21/15), hereby incorporated by reference.

13 (h) Drainage facilities and structures shall discharge into vegetation, woody debris, or  
14 rock wherever possible. Where erosion-resistant material is not present, slash, rock, or other  
15 energy dissipating material shall be installed below the drainage facility or drainage structure  
16 outlet as necessary to minimize soil erosion and sediment transport and to prevent significant  
17 sediment discharge. Guidance on energy dissipaters for drainage structures may be found in  
18 “Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic  
19 Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk  
20 Crossings” ~~(1st Edition, revised 10/27/14)~~ (1st Edition, revised 04/21/15), hereby incorporated  
21 by reference.\*\*\*\*\*

22  
23 \*\*\*\*\*Note: Authority cited: Sections 4551, 4551.5, 4553, 4561.7 and 4562.9, Public Resources  
24 Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5, ~~and 4562.7,~~ and 4597 Public

1 Resources Code; 33 USC 1288(b); and *Natural Resources Defense Council, Inc. v. Arcata Natl.*  
2 *Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172. \*\*\*\*\*

3  
4 **923.9 [943.9, 963.9] Watercourse Crossings**

5 \*\*\*\*\*(m) The following drainage standards shall apply to logging road watercourse  
6 crossings:

7 (1) Adequate surface drainage at logging road watercourse crossings shall be  
8 provided through the use of logging road surface shaping in combination with the installation of  
9 drainage facilities, ditch drains, or other necessary protective structures to hydrologically  
10 disconnect the road from the crossing to the extent feasible.

11 (2) Consistent with 14 CCR § 923.5(a)-(i), drainage facilities and ditch drains  
12 shall be installed adjacent to logging road watercourse crossings, as needed, to hydrologically  
13 disconnect to the extent feasible the logging road approach from the crossing, to minimize soil  
14 erosion and sediment transport, and to prevent significant sediment discharge during and upon  
15 completion of timber operations. Guidance on hydrologic disconnection may be found in “Board  
16 of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road  
17 Drainage, Minimization of Diversion Potential, and High Risk Crossings” (~~1st Edition, revised~~  
18 10/27/14) (1st Edition, revised 04/21/15), hereby incorporated by reference.\*\*\*\*\*

19 \*\*\*\*\*(o) Where crossing fills over culverts are large, or where logging road watercourse  
20 crossing drainage structures and erosion control features historically have a high failure rate,  
21 such drainage structures and erosion control features shall be oversized, designed for low  
22 maintenance, reinforced, or removed before the completion of timber operations or as specified  
23 in the plan. Guidance on reducing the potential for failure at high risk watercourse crossings  
24 may be found in “Board of Forestry Technical Rule Addendum Number 5: Guidance on  
25 Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk

1 Crossings" (~~1st Edition, revised 10/27/14~~) (1st Edition, revised 04/21/15), hereby incorporated  
2 by reference. \*\*\*\*\*

3  
4 \*\*\*\*\*Note: Authority cited: Sections 4551, 4551.5 and 21004, Public Resources Code.  
5 Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5, ~~and 4562.7~~; and 4597 Public  
6 Resources Code; 40 CFR 130.2(q); and *Natural Resources Defense Council, Inc. v. Arcata*  
7 *Natl. Corp.* (1972) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172. \*\*\*\*\*

8  
9 **929 [949, 969] Statement of Purpose**

10 \*\*\*\*\*The purpose of this article is to:

11 (a) ensure that the significant archaeological and historical sites within the site survey area  
12 are adequately identified and protected,

13 (b) to provide direction to RPFs preparing THPs (which includes all forms of THPs including,  
14 but not limited to, Modified THPs and Nonindustrial Timber Management Plans  
15 (NTMPs), Working Forest Management Plans (WFMPs), Program Timber Harvesting Plans  
16 (PTHPs)), Notice of Emergency Timber Operations (Emergency Notices), and any Exemption  
17 Notices pursuant to 14 CCR §§ 1038 and 1104.1,

18 (c) provide direction to the timber operator conducting timber operations,

19 (d) provide direction to the Department in its review, approval and inspection programs. \*\*\*\*\*

20 \*\*\*\*\*Note: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference:  
21 Sections 4582(f), 4597, 21002, 21060.5, 21083.2 and 21084.1, Public Resources Code. \*\*\*\*\*

1 **945.1 Statement of Purpose**

2 \*\*\*\*\*The purpose of these rules is to:

3 (a) ~~insure~~ensure that the visual and aesthetic sites identified within the Scenic  
4 Combining District are adequately identified and protected,

5 (b) provide direction to RPFs preparing plans which, for the purposes of this section,  
6 include THPs, MTHPs, NTMPs, WFMPs, PTEIRs, Notices of Emergency Timber Operations,  
7 and any Exemptions Notices pursuant to 14 CCR §§ 1038 and 1104.1,

8 (c) provide direction to the timber operator conducting timber operations,

9 (d) provide direction to the Department in its review, approval, and inspection  
10 programs.\*\*\*\*\*

11 \*\*\*\*\*Note: Authority cited: Section 4516.5, Public Resources Code. Reference: Section  
12 4516.5, and 4597 Public Resources Code.\*\*\*\*\*

13  
14 **1038 Exemption**

15 \*\*\*\*\* (h) Harvesting of large old trees shall only occur when:

16 (1) the tree is not critical for the maintenance of a Late Successional Stand and

17 (2) an RPF attaches to the exemption an explanation and justification for the removal  
18 based on the RPF's finding that one or more of the criteria or conditions listed under subsection  
19 (A), (B), or (C) are met.

20 The requirements of (h)(2) need not be met if an approved management document; including  
21 but not limited to a HCP, SYP, NTMP, WFMP, or PTEIR; addresses large old tree retention for  
22 the area in which the large old tree(s) are proposed for removal and the removal is in  
23 compliance with the retention standards of that document.\*\*\*\*\*

1  
2 \*\*\*\*\*Note: Authority cited: Sections 4551, 4553, 4584 and 4584.1, Public Resources Code.  
3 Reference: Sections 4516, 4527, 4584, and 4597 Public Resources Code; and *EPIC v.*  
4 *California Department of Forestry and Fire Protection and Board of Forestry* (1996) 43 Cal.  
5 App.4th 1011.\*\*\*\*\*

6  
7 **1090.26 Change of Ownership Timberland Owner(s)**

8 ~~Any change in ownership of land must be reported to the Director by the new landowner within~~  
9 ~~180 days of the date such change is recorded in the county where the property is located. Also,~~  
10 ~~before the passage of title, it shall be responsibility of the seller to notify the purchaser of either~~  
11 ~~the timber or timberland of their responsibility for compliance with the stocking standards of the~~  
12 ~~Act and the rules of the Board.~~

13 \*\*\*\*\* (a) Upon a change of ownership of the land described in the NTMP, the transferring  
14 timberland owner(s) shall provide the acquiring timberland owner(s) with a written Transfer of  
15 Responsibilities Notice that discloses the existence of the NTMP and informs the acquiring  
16 timberland owner(s) of the need to notify the Department of the acquiring timberland owner(s)  
17 intent to assume the responsibilities of the NTMP. The transferring timberland owner(s) shall  
18 also send the Department a copy of the Transfer of Responsibilities Notice provided to the  
19 acquiring timberland owner(s).

20 (b) If the transferring timberland owner(s) fails to provide the Notice required in the 14 CCR §  
21 1090.26(a) and the Department discovers the change of ownership, the Department shall  
22 provide the acquiring timberland owner(s) with the Transfer of Responsibilities Notice.

23 (c) The acquiring timberland owner(s) shall have one (1) year from the date of receipt of the  
24 Transfer of Responsibilities Notice pursuant to either 14 CCR § 1090.26(a) or 14 CCR §  
25 1090.26(b), whichever is applicable, to notify the Department in writing of their intent to assume

1 the responsibilities of the NTMP. If the Department does not receive notification within this  
2 period, the Department may cancel the NTMP.

3 (d) A violation of this section by a timberland owner(s) does not constitute a crime pursuant to  
4 PRC § 4601.

5 (e) After a plan is found in conformance with the rules and regulations of the Board, the Director  
6 may file a Notice of Stocking Requirements on the property with the recorder of the county  
7 within which the plan is located if any area logged under a Notice of Timber Operations has not  
8 had a report of satisfactory stocking issued by the Director.\*\*\*\*\*

9  
10 \*\*\*\*\*Note: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.10, Public  
11 Resources Code. Reference: Sections 4593, 4593.4 and 4593.10, Public Resources Code.\*\*\*\*\*

### 12 13 **1090.28 State Restoration Projects**

14 Notwithstanding any other law, if a person with a NTMP applies for state restoration grant  
15 funding for a restoration project that has a significant public benefit, the application shall not be  
16 summarily denied on the basis that the project is a required condition of the harvesting plan.

17  
18 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

19 Reference: Section 4597.19, Public Resources Code.

### 20 21 **Article 6.95 Working Forest Management Plan Administration**

#### 22 23 **1094 Rule Application**

24 Where the abbreviation THP, the term Timber Harvesting Plan, or the word plan is used in  
25 Chapter 4, Subchapters 1 through 6 and Chapter 4.5 it shall also mean Working Forest

1 Management Plan as specified in PRC § 4597 et seq. In Subchapter 7 this equivalency will  
2 occur for all sections except 1032.7 through 1042 that are not referenced in this Article, or as  
3 otherwise specified.

4  
5 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

6 Reference: Section 4597, Public Resources Code.

7  
8 **1094.1 Working Forest Management Plan and Working Forest Harvest Notice Filing**

9 **Locations**

10 The Working Forest Management Plan (WFMP) or Working Forest Harvest Notice for proposed  
11 timber operations, pursuant to PRC § 4597.1 et seq., shall be submitted in writing to the Director  
12 at the appropriate CAL FIRE Review Team Office having jurisdiction for the timber operations,  
13 and shall contain the information specified in 14 CCR §§ 1094.6 and 1094.8.

14  
15 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

16 Reference: Section 4597.2, Public Resources Code.

17  
18 **1094.2 Definitions**

19 The following definitions apply to this article:

20 (a) "Designated Agent" means a person granted sole authority through written certification of all  
21 the Working Forest Landowner(s) designated in a submitted or approved WFMP, to conduct  
22 those activities specifically assigned to a Designated Agent by Board Rules and Regulations.

23 (b) "Late Succession Forest Stands", pursuant to PRC § 4597.2(g)(3), means stands of  
24 dominant and predominant trees that meet the criteria of the California Wildlife Habitat  
25 Relationships System class 5D, 5M, or 6 with an open, moderate, or dense canopy closure

1 classification, often with multiple canopy layers, and are at least ten (10) acres in size.

2 Functional characteristics of late succession forest stands include large decadent trees, snags,  
3 and large down logs.

4 (c) "Long Term Sustained Yield (LTSY)" , pursuant to PRC § 4597.1(a), means the average  
5 annual growth sustainable by the inventory predicted at the end of a 100-year planning horizon,  
6 or a shorter planning horizon if the forest encompassed by the WFMP has reached a balance  
7 between growth and yield.

8 (d) "Major Stand Type", pursuant to PRC § 4597.1(b), means a stand that occupies an area  
9 equal to or greater than 25 percent of a WFMP.

10 (e) "Management Unit", pursuant to PRC § 4597.1(c), means a geographically identifiable area  
11 delineated for silviculture or management purposes. A Management Unit is intended to reflect  
12 an area scheduled for harvest under the plan in any given year, but may also be designated to  
13 address specific resource sensitivities.

14 (f) "Stand", pursuant to PRC § 4597.1(d), means a geographically identifiable group of trees  
15 sufficiently uniform in age-class distribution, composition, and structure and growing on a site of  
16 sufficiently uniform quality to be a distinguishable unit.

17 (g) "Strata", pursuant to PRC § 4597.1(e), means a grouping of similar Stands defined for  
18 silvicultural or management purposes, usually according to similarities in stand composition,  
19 structure, and age.

20 (h) "Sustained Yield", pursuant to PRC § 4597.1(f), means the yield of commercial wood that an  
21 area of commercial timberland can produce continuously at a given intensity of management  
22 consistent with required environmental protection and that is professionally planned to achieve  
23 over time a balance between growth and removal. Sustained Yield management implies  
24 continuous production planned so as to achieve, at the earliest practical time, a balance  
25 between growth and harvest.

1 (i) "Unevenaged Management", pursuant to PRC § 4597.1(g), means forest management with  
2 the goal of establishing a well-stocked stand of various age classes, which permits the periodic  
3 harvest of individual or small groups of trees to achieve Sustained Yield objectives of the  
4 WFMP, and provide for regeneration of trees and maintenance of age class structure.

5 (j) "Working Forest Harvest Notice", pursuant to PRC § 4597.1(h), means notice of timber  
6 harvest operations, pursuant to an approved WFMP, which meets the requirements of PRC §  
7 4597.11 and 14 CCR § 1094.8.

8 (k) "Working Forest Landowner", pursuant to PRC § 4597.1(i), means an owner of timberland  
9 with less than 15,000 acres of timberland who has an approved WFMP and is not primarily  
10 engaged in the manufacture of forest products.

11 (l) "Working Forest Management Plan (WFMP)", pursuant to PRC § 4597.1(j), means a  
12 management plan for Working Forest Timberlands, with objectives of maintaining, restoring, or  
13 creating Unevenaged Managed timber stand conditions, achieving Sustained Yield, and  
14 promoting forestland stewardship that protects watersheds, fisheries and wildlife habitats, and  
15 other important values. Other important values include maintained forest ecosystem processes  
16 and services. A WFMP shall be less than 15,000 acres of timberland.

17 (m) "Working Forest Timberlands", pursuant to PRC § 4597.1(k), means timberlands owned by  
18 a Working Forest Landowner(s).

19  
20 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

21 Reference: Sections 4597.1 and 4597.2, Public Resources Code.

22  
23 **1094.3 WFMP Submittal and Notice of Preparation**

24 A WFMP may be submitted to the Department in writing by a person who intends to become a  
25 Working Forest Landowner(s) with the long-term objectives of promoting forestland stewardship.

1 uneven aged timber stand(s) and sustained yield through the implementation of a WFMP. The  
2 WFMP shall be prepared by a RPF, shall be public record, shall include all of the specified  
3 information pursuant to 14 CCR §1094.6 and the following conditions shall be met:

4 (a) A plan shall be submitted by the person(s) who owns the timberland included in the plan.

5 (b) Where the timber is owned by parties other than the timberland owner(s), the timberland  
6 owner(s) shall give prompt written notice of such plan to those parties.

7 (c) The Plan Submitter(s) shall prepare and submit to the Director, with the plan, a Notice of  
8 Preparation to Harvest Timber if :

9 (1) Any proposed plan boundary lies within 300 ft. of any property owned by any person  
10 other than the plan submitter, or

11 (2) Any deviation changes a plan boundary where the new boundary of the additional  
12 area lies within 300 ft. of any property owned by any person other than the Plan Submitter(s), or

13 (3) Any deviation changes the silvicultural method if a Notice of Preparation was  
14 required for the plan by conditions (1) or (2) above.

15 (d) A Notice of Preparation shall include the following information:

16 (1) The name(s) of the Plan Submitter(s).

17 (2) The location of the Plan area by county, section, township, and range, and the  
18 approximate direction and distance to the plan area from the nearest community or well-known  
19 landmark.

20 (3) The name of the nearest perennial blue line stream flowing through or downstream  
21 from the plan area.

22 (4) The acreage of the WFMP area and the acreage of the Working Forest Timberlands  
23 within which timber operations under the WFMP are to be conducted.

24 (5) The silvicultural method(s) proposed.

25 (6) The estimated earliest date that the Director may approve the plan as has been

1 indicated in the WFMP instructions as specified in 14 CCR § 1094.17.

2 (7) A statement that the public may review the plan at the specified CAL FIRE Review  
3 Team Office and a reasonable per page copy fee may be set by the Director for additional  
4 copies.

5 (e) The person(s) submitting the plan shall furnish to the Department at the time of submission  
6 of the plan, a list of all persons, including their mailing addresses, who hold legal or equitable  
7 title to property within 300 ft. of the plan boundary. Either a list compiled from the latest  
8 equalized assessment roll or a list provided by a title insurance company doing business in  
9 California shall be deemed sufficient for compliance with the subsection.

10 (f) The Department shall mail copies of the Notice of Preparation within two (2) working days of  
11 receipt of the plan to all persons identified in (e) above.

12 (g) Prior to plan submission, the person submitting the plan shall post a copy of the Notice of  
13 Preparation at a conspicuous location that is easily visible to the public and near the plan site.  
14 Notwithstanding other Board rules and regulations, the notices required by 14 CCR § 1032.10  
15 shall be completed prior to submission of the WFMP, and within counties with special rules, (14  
16 CCR Subchapter 4, Article 13 and Subchapter 6, Article 13) the noticing requirements will be  
17 the same as for a THP.

18  
19 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

20 Reference: Sections 4597.2 and 4597.3, Public Resources Code.

21  
22 **1094.4 Notice of Preparation-Distribution by Director**

23 The Director shall distribute copies of each Notice of Preparation within two (2) working days of  
24 receipt to:

25 (a) The Office of the County Clerk, of the county(s) in which operations are proposed, for

1 posting at the customary place for posting environmental affairs.

2 (b) The local Unit headquarters for posting.

3 (c) At such other locations as the Director may deem desirable and feasible to provide adequate  
4 public notice.

5 (d) Any additional distribution of the Notice of Preparation required by the Board rules and  
6 regulations for individual counties.

7 (e) A publically available internet database.

8  
9 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

10 Reference: Section 4597.3, Public Resources Code.

11  
12 **1094.5 Request for Notification of WFMP or Working Forest Harvest Notice Submission**

13 (a) Each applicable CAL FIRE Review Team Office shall maintain a list of WFMPs or Working  
14 Forest Harvest Notice(s) submitted each day.

15 (b) When any person requests a notice of submission of a WFMP, the Director shall provide the  
16 person, free of charge, with a copy of the list of WFMPs or Working Forest Harvest Notice(s)  
17 submitted on the date or dates requested. If no specific date is requested, a copy of the lists for  
18 the preceding week shall be provided.

19  
20 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

21 Reference: Sections 4597.4 and 21092, Public Resources Code.

22  
23 **1094.6 Contents of WFMP**

24 The WFMP shall serve three functions: 1) to provide information the Director needs to  
25 determine whether the proposed WFMP conforms to the Board rules and regulations; 2) to

1 provide information and direction for timber management so it complies with the Board rules and  
2 regulations and the management objectives of the landowner(s); and 3) to disclose the potential  
3 effects of timber management to the public. For the WFMP to serve these functions, it shall, at a  
4 minimum, contain the following information:

5 (a) Name, address and telephone number of the timberland owner(s).

6 (b) Name, address and telephone number of the Designated Agent if known at the time of  
7 WFMP submission.

8 (c) Name, address, and telephone number of the timber owner(s) (if different than the  
9 timberland owners).

10 (d) Name, address, telephone number, and registration number of RPF who prepared the plan.

11 (e) A United States Geological Survey quadrangle map or equivalent, of a scale not less than 2"  
12 per mile. The map shall include:

13 (1) Boundaries of WFMP Management Unit(s). Boundaries of Management Units shall  
14 not exceed a single ownership which may include, but is not limited to, entities comprised as a  
15 single ownership of divided interest, natural-persons with undivided interests, or a legally  
16 established artificial-person (such as limited liability companies, corporations, partnerships, or  
17 trusts).

18 (2) Boundaries of yarding (logging) systems, if more than one (1) system is to be used.

19 (3) Boundaries of areas sample marked for each prescribed silvicultural method to be  
20 applied.

21 (4) Location of all roads to be used for, or potentially impacted by, timber operations.

22 This shall include:

23 (A) The classification of all roads as permanent, seasonal, temporary, or  
24 proposed for abandonment.

1 (B) Roads and landings located in Watercourses, Lakes, WLPZs, marshes, Wet  
2 Meadows, or Other Wet Areas, other than at road watercourse crossings.

3 (C) Roads that provide access to rock pits and water drafting sites, and the  
4 location of water drafting sites.

5 (D) Public roads within one-quarter (1/4) mile of the harvest area.

6 (E) The location of significant existing or potential erosion sites on all roads and  
7 landings pursuant to 14 CCR § 923.1(e).

8 (5) Location of proposed and existing landings outside the WLPZ that are greater than  
9 1/4 acre in size or whose construction involves substantial excavation.

10 (6) Location of area(s) of low, moderate, high or extreme erosion hazard ratings.

11 (7) Location of all Lakes and Watercourses with Class I, II, III, or IV waters.

12 (8) Location of known unstable areas or slides.

13 (9) Location of understocked areas and other areas not normally bearing timber to at  
14 least a 20-acre minimum, or as specified in the district rules.

15 (10) Location of boundaries of timber-site classes needed for determination of stocking  
16 standards to be applied.

17 (11) The locations of logging roads and landings to be abandoned or deactivated.

18 (12) A soils map where available.

19 (13) Late Successional Forest Stands or Strata

20 (14) Location of unique areas including Coastal Commission Special Treatment Areas or  
21 other special treatment areas and known locations of state or federally listed threatened,  
22 candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR §  
23 895.1; and species that meet the criteria under 14 CCR § 15380(d).

24 (15) The location of all new permanent constructed and reconstructed, and temporary  
25 logging road watercourse crossings, including those crossings to be abandoned or deactivated.

1 (16) Locations of logging road failures on existing logging roads to be reconstructed.

2 (f) A description of the plan area within which timber operations are to be conducted, except as  
3 otherwise specified. The description shall include the following:

4 (1) Township, range, and section number(s) and approximate plan acreage,

5 (2) County name(s),

6 (3) CALWATER v2.2 planning watershed number(s),

7 (4) The forest district and subdistrict (if any) in which the WFMP is located.

8 (5) A description of present and proposed plan area uses other than timber production.

9 (g) A description by the RPF of the inventory design and standards which, at a minimum, shall  
10 include:

11 (1) The baseline conditions found on the WFMP including the future conditions and  
12 planning horizon associated with the estimate of LTSY.

13 (2) Describe the design of inventory plots or strips, cruise lines and reference points  
14 between plots or strips, that are sufficient to facilitate initial review of the WFMP.

15 (3) The type of projections or models used for projecting growth and yield shall be  
16 appropriate for stand conditions and the period of time necessary to estimate achievement of  
17 LTSY.

18 (h) A description of the inventory design and timber stand stratification criteria that demonstrates  
19 that the inventory supporting the growth and yield calculations used to determine LTSY by  
20 volume for the WFMPs meets the following minimum standards:

21 (1) For Major Stand Type(s) or Strata, the inventory estimate shall be within fifteen (15)  
22 percent of the mean at one (1) standard error.

23 (2) For Stand(s) or Strata that make up greater than ten (10) percent and less than  
24 twenty five (25) percent of the WFMP area, the estimate shall be no greater than twenty five  
25 (25) percent of the mean at one (1) standard error.

1 (3) Inventory estimates and growth and yield shall be projected for the purposes of  
2 determining LTSY and volumes available for harvest by Stand or Strata and aggregated for the  
3 area covered by the WFMP to develop the LTSY estimate. LTSY estimates shall reasonably  
4 reflect constraints applicable to the Working Forest Timberlands on forest management  
5 activities. Reasonable constraints shall include biologic and economic factors, while accounting  
6 for limits on productivity due to constraints imposed from consideration of other forest values,  
7 including but not limited to, recreation, watershed, wildlife, range and forage, fisheries, regional  
8 economic activity, employment and aesthetic enjoyment.

9 (i) A description of the property and planned activities including acres and projected growth,  
10 existing stand types, Major Stand Types or Strata, its current projected growth by Strata,  
11 silvicultural method(s) to be applied to Strata to achieve LTSY, projected timber volumes and  
12 tree sizes to be available for harvest, projected frequencies of harvest, and potential pest and  
13 protection problems.

14 (1) Silvicultural method(s) to be applied during the initial harvest(s), projected future  
15 harvest(s) and method(s) used in the projected growth and yield to achieve LTSY.

16 (i) A description and discussion of the methods to be used to avoid significant sediment  
17 discharge to watercourses from timber operations shall be included in an erosion control  
18 implementation plan. This shall include disclosure of active erosion sites from logging roads,  
19 skid trails, crossings, or any other structures or sites that have the potential to discharge  
20 sediment attributable to timber operations into waters of the state resulting in significant  
21 sediment discharge and violation of water quality requirements. The erosion control  
22 implementation plan shall also include a schedule to implement erosion controls that prioritizes  
23 significant existing erosion site(s). This subdivision shall not apply to the extent that the RPF  
24 provides documentation to the Department that the WFMP is in compliance with similar  
25 requirements of other applicable provisions of law.

1 (k) Special provisions to protect unique areas, if any, within the WFMP area.

2 (l) A description of Late Succession Forest Stands, including their biological legacies and  
3 hardwoods, in the plan area, their acreage, composition, structure, and how the total acreage of  
4 this type of habitat will be maintained across the plan area under a constraint of no net loss.  
5 Nothing in this requirement shall be interpreted to preclude active management on any given  
6 acre of an approved plan if the management is conducted in a manner that maintains or  
7 enhances the overall acreage of Late Succession Forest Stands that existed in the plan area  
8 upon initial plan approval. An exception to the no net loss constraint may be granted in the  
9 event of a catastrophic loss due to emergency factors such as wildfire, insect, and disease  
10 activity. The description shall include the following:

11 (1) Retention measures for existing biological legacies such as snags, trees with cavities  
12 or basal hollows, and down logs, and address how legacies shall be managed over time as  
13 appropriate with the forest type, climate, and timberland owner's forest fire fuels and wildlife  
14 management objectives.

15 (2) Hardwood tree species and how they will be managed over time.

16 (m) Disclosure of:

17 (1) State or federally listed threatened, candidate, endangered, or rare plant or animal  
18 species known locations within the biological assessment area and the WFMP, their status and  
19 habitats, take avoidance methodologies, enforceable protection measures for species within or  
20 adjacent to the WFMP and habitats within the WFMP area, and how forest management will  
21 maintain species and habitats over time;

22 (2) Any known locations of plant or animal species pursuant to 14 CCR § 15380(d)  
23 within the biological assessment area and the WFMP;

24 (3) Information on the presence and known locations of key habitats within the WFMP or  
25 individual Sensitive Species pursuant to 14 CCR § 895.1 adjacent to or within the WFMP.

1 (n) A description of the following for each Management Unit shall contain:

2 (1) Acres by Stand or Strata and estimated growth and yield for each planned harvest  
3 entry covering the period of time the LTSY plan establishes as necessary to meet growth and  
4 yield objectives. The growth and yield estimates may be based on weighted average of yield for  
5 the Major Stand Type(s) or Strata within the area included in the Management Unit.

6 (2) Yarding methods to be used.

7 (o) For LTSY projections that project a reduction, over 100-year planning horizon or shorter  
8 planning horizon until growth and yield are balanced, in quadratic mean diameter of trees  
9 greater than 12 inches in diameter or a reduced level of inventory for a Major Stand Type or for  
10 a Stand or Strata that make up greater than 10 percent and less than 25 percent of the WFMP  
11 area, an assessment shall be included that does all of the following:

12 (1) Addresses state or federally listed threatened, candidate, and endangered species;  
13 rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria  
14 under 14 CCR § 15380(d), that timber operations could adversely impact by potential changes  
15 to habitat.

16 (2) Addresses species habitat needs utilizing the “WHR system” described in “A Guide to  
17 Wildlife Habitats in California,” California Department of Fish and Wildlife, 1988, herein  
18 incorporated by reference, or comparable typing system approved by the Director after  
19 consultation with the California Department of Fish and Wildlife.

20 (3) Addresses constraints to timber management, the impact of the availability and  
21 distribution of habitats on the ownership and within the cumulative impacts assessment area  
22 identified in the plan in relation to the harvest schedule, and the impacts of the planned  
23 management activities utilizing the existing habitat as the baseline for comparison.

24 (4) Discusses and includes feasible measures planned to avoid or mitigate potentially  
25 significant adverse impacts on fish or wildlife, which can include, but is not limited to,

1 recruitment or retention of large down logs greater than 16 inches in diameter and 20 feet in  
2 length, retention of trees with structural features such as basal hollows, cavities, large limbs, or  
3 broken tops, retention of hardwoods, and retention or recruitment of snags greater than 24  
4 inches in diameter and 16 feet in height.

5 (p) A certification by the RPF preparing the plan that the RPF or the RPF's Supervised  
6 Designee has personally inspected the plan area and has clearly explained to the Working  
7 Forest Landowner(s) that the plan is a long-term commitment that may require ongoing  
8 investments, including inventory sampling and logging road maintenance, for the purpose of  
9 managing the plan.

10 (q) The WFMP shall describe a future schedule of inventory sampling and analysis of LTSY,  
11 which shall consider:

12 (1) Site class, projected growth and yield and harvest(s).

13 (2) Original projections or model calibration and accuracy.

14 (3) Episodic events including disease and drought caused tree mortality, windthrow, fire  
15 and reforestation.

16 (r) A description of any cultural or historical resources known to exist with a description of  
17 possible impacts and protection methods to be used during timber operations.

18 (s) Whether a timberland conversion certificate is in effect, its date of expiration, and its  
19 identification number.

20 (t) Whether a timber harvesting plan is on file with the Department for any part of the plan area  
21 and if a Report of Satisfactory Stocking has been issued by the Department (show plan  
22 number).

23 (u) A description of potential impacts to, and protections for, the quality and beneficial uses of  
24 water.

25 (v) A description of how the site preparation standards and stocking standards will be met.

- 1 (w) A description of slash treatment for site preparation, fire protection and pest protection  
2 consideration.
- 3 (x) A description of the cumulative effects analysis with supporting information, including  
4 impact(s) of projected timber operations over the life of the plan.
- 5 (y) The Department shall make available a copy of the California Forest Practice Rules in effect  
6 at the time of WFMP approval.
- 7 (z) Explanation and justification for, and specific measures to be used for, tractor operations on  
8 unstable areas, on slopes over 65%, and in areas where slopes average over 50% where the  
9 EHR is high or extreme.
- 10 (aa) Explanation and justification for tractor operations in areas designated for cable yarding.
- 11 (bb) Winter period operating plan where appropriate.
- 12 (cc) Explanation and justification for use of landings, logging roads and skid trails in the  
13 protection zones of Watercourses, Lakes, Wet Meadows, or Other Wet Areas.
- 14 (dd) Explanation and justification of any in-lieu or alternative practices for Watercourse and Lake  
15 protection.
- 16 (ee) Explanation of alternatives to standard rules for harvesting and erosion control.
- 17 (ff) Explanation and justification for landings that exceed the maximum size specified in the  
18 rules.
- 19 (gg) A description of soils, surface erosion hazard, mass wasting erosion hazard, and erosion  
20 control measures.
- 21 (hh) A description of the existing and proposed road system to be used in implementation of the  
22 WFMP, including the diameter of any permanent culverts on Class I, II, or III watercourses and  
23 the methods used to determine the diameter.
- 24 (ii) A description of Lakes, Wet Meadows and Other Wet Areas.
- 25 (jj) A RPF may propose, and the Director may approve, a standard operating practice(s) that

1 could be utilized in site-specific locations during future operations under an approved WFMP.  
2 Standard operating practices are limited to contents pursuant to 14 CCR §§ 1094.6(z) and  
3 1094.6(cc).

4 (1) A representative sample of each type of proposed standard operating practice(s)  
5 shall be flagged in the field by the RPF, or Supervised Designee, and available for field review  
6 by the interdisciplinary review team.

7 (2) For locations where the prescribed standard operating practice(s) will not adequately  
8 address the site specific conditions, the RPF, through consultation with the multi-disciplinary  
9 review team, may develop alternative mitigations that shall be incorporated into the WFMP  
10 through a deviation prior to submittal of a Working Forest Harvest Notice for the area in which  
11 the developed mitigation measure(s) applies to is located.

12 (kk) Proprietary information shall be treated consistent with PRC § 21160 and GOV § 6254.7.

13  
14 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

15 Reference: Sections 4562.5, 4562.7, 4597.2 and 21000(g), Public Resources Code.

16  
17 **1094.7 Working Forest Harvest Notice**

18 The Designated Agent shall file a Working Forest Harvest Notice with the Department in writing.

19 A Working Forest Harvest Notice shall be filed prior to the harvesting of any timber and shall be  
20 effective for a maximum of one (1) year from the date of filing. The Designated Agent shall notify  
21 the timberland owner(s) by certified mail that the Working Forest Harvest Notice has been  
22 submitted and shall certify that mailing to the Department. Notwithstanding any other provisions  
23 of this article, when a RPF certifies by written declaration, on behalf of the timber owner(s) or  
24 operator(s), that the Working Forest Harvest Notice conforms to and meets the requirements of  
25 the approved WFMP under which it is filed, timber operations may commence immediately upon

1 filing of a Working Forest Harvest Notice. If the Working Forest Harvest Notice has been filed by  
2 mailing, operations may commence three days after the Working Forest Harvest Notice has  
3 been mailed.

4  
5 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

6 Reference: Sections 4597.11 and 4597.15, Public Resources Code.

7  
8 **1094.8 Working Forest Harvest Notice Content**

9 The Working Forest Harvest Notice shall be a public record, including Department posting on a  
10 publically available internet database. All necessary deviations shall be approved by the  
11 Director prior to submission of a Working Forest Harvest Notice. The Working Forest Harvest  
12 Notice shall include all of the following information:

13 (a) Name, address, and telephone number of the timberland owner(s).

14 (b) Name, address, and telephone number of the Designated Agent.

15 (c) Name, address, and telephone number of the timber owner(s) (if different from timberland  
16 owner(s)).

17 (d) Name, address, telephone number and license number of the licensed timber operator(s)  
18 conducting operations pursuant to the Working Forest Harvest Notice.

19 (e) Name, address, telephone number and registration number of the RPF preparing the  
20 Working Forest Harvest Notice and the name, address, and registration number of the RPF  
21 responsible pursuant to 14 CCR § 1094.11 if different.

22 (f) A legal description of the land, including acreage, on which the work is proposed to be done  
23 including the identification number of the WFMP.

24 (g) A statement that no archaeological sites have been discovered in the harvest area since the  
25 approval of the WFMP or approved deviations.

1 (h) A statement that state or federally listed threatened, candidate, and endangered species;  
2 rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria  
3 under 14 CCR § 15380(d), have not been discovered, or are publically known, within and  
4 adjacent to the logging area, since the approval of the WFMP, unless the approved WFMP is  
5 amended pursuant to either 14 CCR § 1094.23 or 14 CCR § 1094.24, consistent with 14 CCR §  
6 1094.8(h)(2). After the initial year the plan is approved, prior to submitting the Working Forest  
7 Harvest Notice, a review shall be conducted of the California Natural Diversity Database or  
8 another public database approved by the Director after consultation with the Department of Fish  
9 and Wildlife for any species listed as state or federally listed threatened, candidate, and  
10 endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species  
11 that meet the criteria under 14 CCR § 15380(d). When a Working Forest Harvest Notice is filed,  
12 and after the initial year the plan is approved, it shall comply with the following:

13 (1) Documented occurrences obtained from a review of public and readily available  
14 sources of species that are state or federally listed threatened, candidate, and endangered  
15 species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the  
16 criteria under 14 CCR § 15380(d) within the biological assessment area, and outside the area of  
17 timber operations, identified in the Working Forest Harvest Notice, and not addressed in the  
18 approved plan shall be submitted to the Director as a minor deviation concurrently with the filing  
19 of a Working Forest Harvest Notice.

20 (2) Documented occurrences of species that are state or federally listed threatened,  
21 candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR §  
22 895.1; and species that meet the criteria under 14 CCR § 15380(d) and discovered inside or  
23 adjacent to the area of timber operations, identified in the Working Forest Harvest Notice, and  
24 not addressed in the approved plan shall be submitted to the Director as a deviation to the  
25 WFMP, prior to filing a Working Forest Harvest Notice. The deviation shall contain take

1 avoidance and other mitigation measures developed in consultation with the Department and  
2 the appropriate listing agency(s), if no such information is currently contained within the  
3 approved plan or incidental take authorization is provided by the appropriate listing agency(s).

4 (i) A statement that, based on a field evaluation, there are no physical environmental changes in  
5 the Working Forest Harvest Notice area that are so significant as to require any deviation of the  
6 WFMP.

7 (j) A certification by the RPF that states either of the following:

8 (1) The Working Forest Harvest Notice as carried out will protect the beneficial uses of  
9 water, including domestic water supplies, soil stability, forest productivity, and wildlife as  
10 provided by the Board rules and regulations and other applicable provisions of law.

11 (2) Compliance with the Board rules and regulations and the provisions of this article that  
12 were in effect at the time the WFMP was approved will not result in any significant degradation  
13 to the beneficial uses of water, including domestic water supplies, soil stability, forest  
14 productivity, or wildlife and shall protect all listed species. This paragraph shall only apply if the  
15 RPF certifies that adherence to the current or modified Board rules and regulations would cause  
16 unreasonable additional expense to the Working Forest Landowner(s).

17 (k) Special provisions to protect unique areas, if any, within the area of timber operations.

18 (l) The expected dates of commencement and completion of timber operations during the year.

19 (m) A statement that the Working Forest Harvest Notice conforms to the provisions of the  
20 approved WFMP. If any aspects of the proposed operation are less protective than the current  
21 forest practices rules, an explanation of the deviation and how resource values will be  
22 adequately protected.

23 (n) An updated erosion control implementation plan that reflects erosion control mitigation  
24 measures for the harvest area and any appurtenant roads if conditions have changed since the  
25 WFMP was approved and a certification from the RPF that no additional listings of water bodies

1 to Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313(d)) list have occurred on the  
2 lands of the plan.

3 (o) The type of equipment to be used for yarding or logging road construction.

4 (p) Instructions on felling, yarding, logging road construction or reconstructions, hauling, erosion  
5 control work, site preparation, erosion control maintenance, winter operations, watercourse  
6 protection measures, slash treatment and logging road maintenance.

7 (q) A verification that the LTO has been briefed by the RPF on the content of the notice and  
8 intentions of implementation to comply with the management plan.

9 (r) The minimum diameter of permanent culverts proposed for installation shall be specified.

10 (s) A description of Lakes, Wet Meadows and Other Wet Areas.

11 (t) Description of the standard operating practice(s) to be implemented within the area covered  
12 under the Working Forest Harvest Notice.

13 (u) On a USGS quadrangle or equivalent map, of a scale not less than 2" to the mile, the  
14 following information pertinent to the Working Forest Harvest Notice shall be clearly provided.

15 Additional maps may be required to show specific details, and may be planimetric. Color coding  
16 on maps shall not be used unless additional black and white maps are provided to clearly show  
17 the same features. A legend shall be included indicating the meaning of the symbols used. See  
18 the district rules for the appropriate minimum mapping acreages. Maps shall be updated to  
19 reflect current field conditions.

20 (1) Boundaries of area(s) where timber operations are to occur under the Working Forest  
21 Harvest Notice.

22 (2) Boundaries of area(s) for specified regeneration methods, intermediate treatments,  
23 special harvesting methods, and alternative prescriptions that are to be applied.

24 (3) Boundaries of area(s) for specified yarding (logging) systems, if more than one (1)  
25 system is to be used.

1 (4) Location of all roads to be used for, or potentially impacted by, timber operations.

2 This shall include:

3 (A) The classification of all roads as permanent, seasonal, temporary, or  
4 proposed for abandonment.

5 (B) Roads and landings located in watercourses, lakes, WLPZs, marshes, wet  
6 meadows, or other wet areas, other than at road watercourse crossings.

7 (C) Roads that provide access to rock pits and water drafting sites, and the  
8 location of water drafting sites.

9 (D) Public roads within one-quarter (1/4) mile of the harvest area.

10 (E) The location of significant existing or potential erosion sites on all roads and  
11 landings pursuant to 14 CCR § 923.1(e).

12 (5) Location of proposed and existing landings outside the WLPZ that are greater than  
13 1/4 acre in size or whose construction involves substantial excavation.

14 (6) Location of logging road failures on existing logging roads to be reconstructed.

15 (7) Location of all new permanent constructed and reconstructed, and temporary logging  
16 road watercourse crossings, including those crossings to be abandoned or deactivated.

17 (8) Designate areas of low, moderate, high or extreme erosion hazard rating, if more  
18 than one (1) exists.

19 (9) Location of lakes and watercourse(s) with Class I, II, III or IV waters; and Wet  
20 Meadows and Other Wet Areas when operations are proposed pursuant to 14 CCR § 916.3(c).

21 (10) Location of known unstable areas or slides.

22 (11) Location of unique areas.

23 (12) Location(s) of standard operating practice(s) to be implemented within the area  
24 covered under the Working Forest Harvest Notice.

25 (13) The locations of logging roads and landings to be abandoned or deactivated.

1 (v) The Department shall make available a copy of the California Forest Practice Rules, or  
2 portions thereof, that apply to each filed Working Forest Harvest Notice.

3 (w) Proprietary information shall be treated consistent with PRC § 21160 and GOV § 6254.7.

4  
5 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

6 Reference: Section 4597.11, Public Resources Code.

7  
8 **1094.9 WFMP Professional Judgment**

9 Where the rules or these regulations provide for the exercise of professional judgment by the  
10 RPF or the Director, if there is a disagreement and if requested by either party, they shall confer  
11 on the WFMP area during the WFMP review inspection and reach agreement, if possible, on the  
12 conditions and standards to be included in the plan.

13  
14 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

15 Reference: Section 4597.20, Public Resources Code.

16  
17 **1094.10 Plan Submitter(s) Responsibility**

18 The plan submitter(s), or successor in interest, shall:

19 (a) Ensure that a RPF conducts any activities which require a RPF.

20 (b) Provide the RPF preparing the plan or deviations with complete and correct information  
21 regarding pertinent legal rights to, interests in, and responsibilities for land, timber, and access  
22 as these affect the planning and conduct of timber operations.

23 (c) File with the Director a minor deviation identifying a Designated Agent that represents the  
24 plan submitter(s) at least five (5) days prior to filing the first Working Forest Harvest Notice,  
25 unless already identified in the WFMP.

1 (d) File with the Director a minor deviation identifying a change in the Designated Agent:

2 (1) Within five (5) days if active timber operations are occurring.

3 (2) Within thirty (30) days if no active timber operations are occurring.

4 (e) Sign the WFMP certifying knowledge of the plan contents and the requirements of this  
5 section.

6 (f) Within five (5) working days of change in RPF responsibilities for WFMP implementation or  
7 substitution of another RPF, file with the Director a minor deviation which states the RPF's name  
8 and registration number, address, and subsequent responsibilities for any RPF required field  
9 work, preparation of deviations, or operation supervision.

10 (g) Provide a copy of the approved WFMP and Working Forest Harvest Notice to the LTO.

11 (h) Notify the Director prior to commencement of site preparation operations. Receipt of a  
12 burning permit is sufficient notice.

13 (i) Provide the RPF preparing the Working Forest Harvest Notice and the LTO each a copy of  
14 the current WFMP and subsequent deviation(s).

15 (j) Provide any change(s) in LTO responsibilities to the Director in writing.

16 (k) Provide the RPF preparing the Working Forest Harvest Notice and LTO(s) each a copy of  
17 the current Lake or Streambed Alteration Agreement, as appropriate, pursuant to Section 1600  
18 et seq. of the Fish and Game Code that covers activities subject to this jurisdiction of activities  
19 covered under the Working Forest Harvest Notice.

20 (l) The Plan Submitter(s), or successor(s) in interest, may delegate responsibility for 14 CCR §  
21 1094.10(f) – (k) to the Designated Agent, with the written notification to the Director.

22  
23 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

24 Reference: Sections 753, 4597.2, 4597.7 and 4597.11, Public Resources Code.

1 **1094.11 Registered Professional Forester Responsibility**

2 (a) Upon submission of a WFMP, the RPF who prepares and signs a plan is responsible for the  
3 accuracy and completeness of its contents.

4 (b) The RPF preparing the plan shall:

5 (1) Inform the Director and landowner(s) by phone, letter, or email if he or she will be  
6 attending the review inspection; and

7 (2) Provide the landowner(s) a copy of the Board rules and regulations in effect on the  
8 date of WFMP approval.

9 (c) The RPF preparing the Working Forest Harvest Notice shall list or describe in the Working  
10 Forest Harvest Notice any work which will be performed by the RPF or the RPF's Supervised  
11 Designee. This may include, but is not limited to, field work in identifying watercourse and lake  
12 protection zones or special treatment areas, marking trees, or other activities. The RPF is only  
13 responsible for the activities required of the RPF by the Board rules and regulations and those  
14 activities for which he or she is employed.

15 (d) The RPF preparing the Working Forest Harvest Notice shall, in writing, inform the plan  
16 submitter(s) and Designated Agent of their responsibility pursuant to 14 CCR § 1094.10, for  
17 compliance with the requirements of the Act and, where applicable, Board rules and regulations  
18 regarding site preparation, stocking, and maintenance of logging roads, landings, and erosion  
19 control facilities.

20 (e) The RPF who prepares the WFMP or prepares the Working Forest Harvest Notice, or any  
21 other RPF who is employed by the owner(s) or operator(s), shall report to the owner or operator  
22 if there are deviations from the WFMP that, in the RPF's judgment, threaten the attainment of  
23 the resources conservation standards of the WFMP.

24 (f) A RPF(s) retained by the plan submitter(s) to provide professional forestry advice throughout  
25 the timber operations shall be present, or ensure that the RPF's Supervised Designee is

1 present, on the logging area at a sufficient frequency to know the progress of operations and  
2 advise the LTO(s) and timberland owner(s), but not less than once during the life of the  
3 operations conducted under a Working Forest Harvest Notice(s).

4 (g) The RPF shall without delay notify, in writing, the LTO(s), the plan submitter(s), the  
5 Designated Agent, and the Department of a decision to withdraw professional services from the  
6 plan.

7 (h) All disclosures made between a RPF and an affected party pursuant to this section may be  
8 kept confidential.

9  
10 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

11 Reference: Sections 752, 753, 4597.2, 4597.7, 4597.11, 4597.13 and 4597.14, Public  
12 Resources Code.

#### 13 14 **1094.12 Interaction Between RPF and LTO on Working Forest Harvest Notice**

15 (a) From the start of the Working Forest Harvest Notice preparation, but before commencement  
16 of operations, the responsible RPF shall meet with either the LTO, or Supervised Designee,  
17 who will be on the ground and directly responsible for the harvesting operation. The meeting  
18 shall be on site if requested by either the RPF or LTO. If any deviation is incorporated into the  
19 Working Forest Harvest Notice by a RPF after the first meeting, that RPF or Supervised  
20 Designee shall comply with the intent of this section by explaining relevant changes to the LTO;  
21 if requested by either the RPF or LTO, another on-site meeting shall take place. Written  
22 documentation of LTO/RPF meetings required under this provision shall be submitted to the  
23 Department. The intent of any such meeting is to assure that the LTO:

24 (1) Is advised of any sensitive on-site conditions requiring special care during  
25 operations.

1 (2) Is advised regarding the intent and applicable provisions of the approved Working  
2 Forest Harvest Notice including deviations.

3  
4 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

5 Reference: Sections 4597.11 and 4597.13, Public Resources Code.

6  
7 **1094.13 Licensed Timber Operator Responsibilities**

8 Each Licensed Timber Operator shall:

9 (a) Inform the responsible RPF and plan submitter(s), either in writing or orally, of any site  
10 conditions which in the LTO's opinion prevent implementation of the Working Forest Harvest  
11 Notice.

12 (b) Keep a copy of the applicable approved Working Forest Harvest Notice and deviations  
13 available for reference at the site of active timber operations.

14 (c) Comply with all provisions of the Act, Board rules and regulations, the applicable Working  
15 Forest Harvest Notice and any approved deviations.

16  
17 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

18 Reference: Sections 4528.5 and 4571, Public Resources Code.

19  
20 **1094.14 Notification of Commencement of Operations**

21 For each Working Forest Harvest Notice submitted, within fifteen (15) days before, and not later  
22 than the day of the start of timber operations, the Designated Agent shall notify the Department  
23 of the start of timber operations. The notification, by telephone, mail, or email, shall be directed  
24 to the appropriate CAL FIRE Unit Headquarters, Forest Practice Inspector, or other designated  
25 personnel.

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Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

Reference: Section 4597.15, Public Resources Code.

**1094.15 Notice of WFMP Filing**

(a) The Director shall prepare a notice of filing which shall contain the basic information contained in the Notice of Preparation pursuant to 14 CCR § 1094.3, plus the assigned WFMP number.

(b) Within two (2) working days of the date the plan is filed, the Director shall transmit copies of the Notice of Filing to:

- (1) The person submitting the plan.
- (2) The office of the County Clerk of the county(s) in which the operations are proposed.

The Notice of Filing shall be posted at the normal place for posting environmental notices.

- (3) The local CAL FIRE Unit headquarters for posting.
- (4) At such other locations as the Director may deem desirable and feasible to provide

adequate public notice.

- (5) All public agencies having custodial responsibility for lands within 300 ft. of the WFMP boundary.

(6) A publically available internet database.

(7) To any person who requests notifications in writing.

(c) Notice of Filing may be transmitted through internet based email.

Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

Reference: Sections 4597.3 and 4597.4, Public Resources Code.

1 **1094.16 Agency and Public Review for the WFMP**

2 (a) Upon receipt of the proposed WFMP, the Department shall place the proposed plan, or a  
3 true copy of the proposed plan, in a location available for public inspection in the county in  
4 which timber operations are proposed under the plan or on a publically available internet  
5 database. For the purpose of interdisciplinary review, the Department shall also transmit a copy  
6 to the Department of Conservation, the Department of Fish and Wildlife, the appropriate  
7 California Regional Water Quality Control Board, the county planning agency, and all other  
8 agencies having jurisdiction by law over natural resources affected by the plan. The Department  
9 shall invite, consider, and respond in writing to comments received from public agencies to  
10 which the plan has been transmitted and shall consult with those agencies at their request.

11 (b) The Director shall also transmit a copy of any specific plan to any person who has made a  
12 written request therefore.

13 (c) The Department shall bill such persons for the cost of providing such copies and such  
14 monies shall be paid to the Department.

15 (d) The Director shall take the following steps when significant new information, as defined in 14  
16 CCR § 895.1, is added to the plan during the course of plan review or during the Director's  
17 Determination period.

18 (1) When significant changes are limited to a few sections or portions of the plan, the  
19 Department need only recirculate the sections or portions that have been modified.

20 (2) When significant changes are not limited to a few sections of the plan, the  
21 Department shall recirculate the entire plan.

22 (3) The Department shall prepare a Letter of Recirculation which shall include:

23 (A) A brief description of the proposed project and its location. Such information  
24 shall include:

25 1. The Plan number and county(s).

1 2. The names of the timberland owner(s) and the plan submitter(s).

2 3. The location of the plan area by county, section, township, and range.

3 4. The name of the nearest major watercourse or CALWATER v2.2 ID.

4 5. The acres proposed to be harvested.

5 6. The silvicultural systems to be used.

6 (B) A summary of changes made to the plan and a brief description of significant  
7 new information contained in the plan.

8 (C) Clarification as to whether the entire plan or only those recirculated portions  
9 of the plan, are open for public comment.

10 (D) The starting and ending dates for the review period during which public  
11 comments will be received.

12 (E) The date, time, and place of any scheduled public meetings when known by  
13 the lead agency at the time of notice.

14 (F) The address where copies of the plan record is available for public review.

15 (4) The Letter of Recirculation shall be sent to all review team members; any agency,  
16 person, or organization that commented on the plan; and all landowners who received a Notice  
17 of Preparation.

18 (5) The Department need only respond to:

19 (A) Comments received during the initial circulation period that relate to sections  
20 or portions of the plan that were not revised and recirculated, and

21 (B) Comments received during the recirculation period that relate to the sections  
22 or portions of the plan that were revised and recirculated.

23 (6) The Department shall include with the Notice of Filing, a Notice of Recirculation  
24 pursuant to 14 CCR § 1032.9.

25

1 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

2 Reference: Sections 4597.3, 4597.5 and 4597.6, Public Resources Code and Joy Road Area  
3 Forest and Watershed Association v. California Department of Forestry & Fire Protection,  
4 Sonoma County Superior Court No. SCV 229850.

5  
6 **1094.17 Director's Determination**

7 (a)The Department shall provide a minimum time period for public comment, starting from the  
8 date of the receipt of a WFMP, as follows:

9 (1) Ninety (90) days for a WFMP for less than 5,000 acres.

10 (2) One hundred ten (110) days for a WFMP for between 5,000 and less than 10,000  
11 acres.

12 (3) One hundred thirty days (130) for a WFMP for between 10,000 and 15,000 acres.

13 (b) Before a WFMP may be approved, all of the following requirements shall be met:

14 (1) Within thirty (30) working days of the receipt of a WFMP, or within forty (40) working  
15 days of the receipt of a plan to which a Road Management Plan pursuant to 14 CCR § 1093 is  
16 appended, the Department shall determine if the plan is accurate, complete, and in proper  
17 order, and if so, the plan shall be filed. An unfiled plan shall be returned to the plan submitter(s)  
18 with an explanation that includes provisions for resubmitting the plan.

19 (2) The initial inspection shall be initiated within twenty (20) working days from the date  
20 of filing of the WFMP, and completed no more than thirty (30) working days from the date of  
21 filing.

22 (3) Upon completion of the initial inspection, the Department shall have up to forty five  
23 (45) working days to conduct the final interagency review of the plan.

24 (4) The public comment period shall end twenty (20) working days after the completion  
25 of the final interagency review of the plan or until the requirement in subsection (a) is met.

1 whichever is greater.

2 (5) After the final interagency review and public comment period has ended, the  
3 Department shall have up to thirty (30) working days to review the public input, to consider  
4 recommendations and mitigation measures of other agencies, to respond in writing to the issues  
5 raised, and to determine if the plan is in conformance with the applicable Board rules and  
6 regulations and other applicable provisions of law.

7 (c) If after final interagency review the Director determines that the plan is not in conformance  
8 with the Board rules and regulations or this article, the Director shall deny and return the plan,  
9 stating the reasons for the denial and advising the plan submitter of the person's right to a  
10 hearing before the Board.

11 (d) If the Director does not act within the time periods provided in 14 CCR § 1094.17(b), the  
12 Director and the Working Forest Landowner(s) submitting the WFMP shall negotiate and  
13 mutually agree upon a longer period for the Director to review the plan. If a longer period cannot  
14 be mutually agreed upon, the WFMP shall be deemed denied and returned to the Working  
15 Forest Landowner(s) submitting the plan.

16 (e) The following provisions apply to the appeal of a denied WFMP:

17 (1) A Working Forest Landowner(s) whose plan is denied pursuant to 14 CCR §§  
18 1094.17(c) or 1094.17(d) may request, within thirty (30) working days from the receipt of the  
19 plan, a public hearing before the Board. The Board shall schedule a public hearing to review the  
20 plan to determine if the plan is in conformance with the Board rules and regulations and this  
21 article.

22 (2) Board action shall take place within thirty (30) working days from the filing of the  
23 appeal, or a longer period mutually agreed upon by the Board and the person filing the appeal.

24 (3) If the Director's decision to deny the plan is overturned by the Board, the Board shall  
25 prepare findings and its rationale for overturning the decision, and return the plan to the

1 Department for approval by the Director.

2 (4) If the plan is not approved on appeal to the Board, the Director, within ten (10)  
3 working days of Board action, shall advise the plan submitter(s) regarding changes needed that  
4 would achieve compliance with this article and other applicable provisions of the law. The plan  
5 submitter(s) shall have forty five (45) working days from the date of the notification letter, or  
6 longer, if mutually agreeable to the Department and the plan submitter(s) to revise the plan to  
7 bring it into full conformance with the Board rules and regulations and this article. Upon receipt  
8 of the information requested of the plan submitter(s), the Department shall recirculate the plan  
9 and reopen the public comment period for thirty (30) working days. Prior to determining whether  
10 to approve the proposed revised plan, the Director shall have thirty (30) working days to review  
11 public input and consider recommendations and mitigation measures of other agencies, and to  
12 respond in writing to issues raised.

13  
14 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

15 Reference: Section 4597.6, Public Resources Code.

16  
17 **1094.18 Review Teams to be Established to Review WFMP**

18 Interdisciplinary review teams shall be established by the Director to review plans and assist the  
19 Director in the evaluation of proposed WFMP(s) and its impacts on the environment. The  
20 Review Team composition, function, tasks and procedures shall be the same as those  
21 described in 14 CCR § 1037.5.

22  
23 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

24 Reference: Sections 4597, 4597.5, 4597.6, 4597.7 and 4597.12, Public Resources Code.

1 **1094.19 Nonconformance of WFMP**

2 If the Director determines that a plan is not in conformance with the Board rules and regulations,  
3 the plan shall be returned in accordance with 14 CCR § 1054. In addition, the Director shall  
4 state any changes and reasonable conditions that in the Director's professional judgment are  
5 needed to bring the plan into conformance with the applicable Board rules and regulations and  
6 offer to confer with the RPF in order to reach agreement on the conditions necessary to bring  
7 the plan into conformance.

8  
9 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

10 Reference: Section 4597.6, Public Resources Code.

11  
12 **1094.20 Conformance of WFMP**

13 If the Director determines that the plan is in conformance with Board rules and regulations, then  
14 the person submitting the plan shall be notified timber operations thereunder may only  
15 commence after submission of a Working Forest Harvest Notice as prescribed in 14 CCR §  
16 1094.7.

17  
18 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

19 Reference: Section 4597.6, Public Resources Code.

20  
21 **1094.21 Notice of Conformance of the WFMP**

22 Within ten (10) working days of the date a plan is found in conformance, the Director shall  
23 transmit a notice thereof to the agencies and persons referred to in 14 CCR § 1094.16 and for  
24 posting at the places named in 14 CCR § 1094.15. A copy of the notice shall be filed with the  
25 Secretary of Resources. The Notice of Conformance shall include a written response of the

1 Director to significant environmental points raised during the evaluation process.

2  
3 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

4 Reference: Sections 4597.3 and 4597.6, Public Resources Code.

5  
6 **1094.22 Public Inspection**

7 Notices of Conformance, pursuant to 14 CCR § 1094.21 and notices of approval by the Board,  
8 pursuant to 14 CCR § 1054, shall be available for public inspection, and a list of such notices  
9 shall be posted on a weekly basis in the Office of the Resources Agency. Each such list shall  
10 remain posted for a period of thirty (30) days.

11  
12 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

13 Reference: Sections 4597.3 and 4597.6, Public Resources Code.

14  
15 **1094.23 Substantial Deviations**

16 (a) The Designated Agent may submit a proposed deviation, as prepared by the RPF, to the  
17 approved plan. No action shall occur that substantially deviates, as defined by the Board, from  
18 the approved plan until the substantial deviation has been approved by the Director. The  
19 Director shall determine, after completion of the interagency review and public comment period,  
20 either of the following:

21 (1) The substantial deviation is in compliance with the current Board rules and  
22 regulations and provisions in this article.

23 (2) The substantial deviation is in compliance with the Board rules and regulations and  
24 provisions in this article that were in effect at the time the WFMP was approved. The Director  
25 may only make this determination if a RPF explains, justifies, and certifies both of the following:

1           (A) The adherence to new or modified Board rules and regulations would cause  
2 unreasonable additional expense to the Working Forest Landowner(s).

3           (B) Compliance with the Board rules and regulations and provisions in this article  
4 that were in effect at the time the WFMP was approved will not result in any significant  
5 degradation to the beneficial uses of water, soil stability, forest productivity, or wildlife.

6 (b) Review timelines for substantial deviations of WFMPs shall conform to the direction provided  
7 in PRC § 4582.7, except for substantial deviations that add acreage covered by the original  
8 WFMP that exceeds ten (10) percent or five hundred (500) acres, whichever is greater.  
9 Substantial deviations that add acreage in excess of ten (10) percent or five hundred (500)  
10 acres shall be reviewed pursuant to the procedures specified in PRC § 4597.6.

11 (c) Changes are presumed to be substantial deviations if they could have a significant affect on  
12 the conduct of timber operations and potentially could have a significant adverse effect on  
13 timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range  
14 and forage, recreation, and aesthetic enjoyment. Such actions may include, but are not limited  
15 to:

16           (1) Change in location of timber harvesting operations within the WFMP area.

17           (2) Enlargement of the WFMP area.

18           (3) An increase in volume to be harvested exceeding ten (10) percent as projected by  
19 the LTSY.

20           (4) Change in the silvicultural method and cutting system on any portion of the plan area.

21           (5) Change in type or location of logging (yarding) system or basic type of equipment.

22           (6) Change in location, nature or increase in length of proposed logging roads  
23 incorporating one or more of the following criteria:

24           (A) Any logging road in a Watercourse or Lake Protection Zone or where  
25 sidecast will extend into the Watercourse or Lake Protection Zone.

1 (B) Any logging road located in an extreme Erosion Hazard Rating area.

2 (C) Any logging road where the average side slope exceeds fifty (50)%.

3 (D) Any logging road where unstable areas, active soil movement, or slide areas  
4 must be traversed.

5 (E) Any increase in gradient allowed by the District Rules as an exception and  
6 not provided for in the original plan.

7 (7) Any road extension of more than six hundred (600) ft. (182.9m).

8 (8) Any use of existing roads not shown in the original plan when reconstruction work to  
9 allow for vehicle travel will be substantial. Substantial work on an existing road means more  
10 than minor repair and dressing of the travel surface and removal of vegetation to allow for  
11 vehicle passage.

12 (9) Use of any logging roads not shown in the plan which would affect the key habitat,  
13 not previously discussed in the plan, of state or federally listed threatened, candidate, and  
14 endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species  
15 that meet the criteria under 14 CCR § 15380(d).

16 (10) Enlargement of landings where such enlargement was not justified in the plan.

17 (11) Any change of operation within, or designation of, Watercourse or Lake Protection  
18 Zones.

19 (12) Any downgrading of watercourse classification.

20 (13) A change to winter operations where summer operations were previously specified.

21 (14) Changes to the erosion control implementation plan as a result of operations to  
22 implement the provisions of the approved erosion control implementation plan shall not be  
23 considered a substantial deviation.

24

1 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

2 Reference: Sections 4582.7, 4597.6, 4597.7 and 4597.8, Public Resources Code.

3  
4 **1094.24 Report of Minor Deviations**

5 (a) "Minor deviations" means any change, minor in scope, in a plan which can reasonably be  
6 presumed not to make a significant change in the conduct of timber operations and which can  
7 reasonably be expected not to significantly adversely affect timberland productivity or values  
8 relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and  
9 aesthetic enjoyment or to result in a violation of the applicable water quality control plan.

10 (b) Minor deviations may be undertaken by the person who submitted the WFMP or Working  
11 Forest Harvest Notice without submission of a minor deviation to the plan and shall be reported  
12 immediately in writing to the Director. Actions described in 14 CCR § 1094.23 which are  
13 normally presumed to be substantial deviations may, in a given instance, be a minor deviation.  
14 Actions listed as substantial deviations in 14 CCR § 1094.23, but considered to be minor  
15 deviation by the submitter(s), may be undertaken only if the person who submitted the plan or  
16 the Designated Agent submits the proposed deviation in writing to the Director for review and  
17 receives approval. Approval shall be given if the Director determines that the proposed minor  
18 deviation conforms to the standards provided in 14 CCR § 1094.24(a). The Director shall have  
19 five (5) working days to act on the application. If the Director or the representative of the  
20 Director does not act within five (5) working days of receipt of such a deviation, timber  
21 operations may commence pursuant to such minor deviation.

22 (c) Newly adopted Board rules or regulations may be incorporated into an approved WFMP  
23 through a minor deviation.  
24

1 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

2 Reference: Sections 4597.8 and 4597.11, Public Resources Code.

3  
4 **1094.25 Report of Completion of Work Described in WFMP; Partial Completion Report**

5 (a) Within one (1) month after completion of the work described in the Working Forest Harvest  
6 Notice, excluding work for stocking, site preparation, or maintenance of drainage facilities and  
7 soil stabilization treatments on skid trails, roads, and landings after the plan period, a report  
8 shall be filed by the timber owner(s) or the Designated Agent with the Department that all work,  
9 except stocking, site preparation, or maintenance of drainage facilities and soil stabilization  
10 treatments, has been completed.

11 (b) If all of the work described in the plan has not been completed, a report may be filed  
12 annually with respect to a portion of the area covered by the plan which has been completed.  
13 The portion completed shall be adequately identified on a map submitted with the report.

14  
15 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

16 Reference: Section 4585, Public Resources Code.

17  
18 **1094.26 Inspection of Completed Work**

19 Within six (6) months of the receipt of the work completion report specified in 14 CCR §  
20 1094.25, the Director shall determine, by inspection, whether the work described in the report  
21 has been properly completed in conformity with the Board rules and regulations and the  
22 provisions in this article. If the work has been so completed, the Director shall issue a report of  
23 satisfactory completion of the work. If not, the Director shall take such corrective action as the  
24 Director determines to be appropriate in accordance with Article 8 (commencing with PRC §  
25 4601).

1  
2 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

3 Reference: Sections 4586 and 4601, Public Resources Code.

4  
5 **1094.27 Stocking Report and Minimum Stocking Standards**

6 (a) Within five (5) years after the completion of timber operations or as otherwise specified in the  
7 rules, a report of stocking on the entire area logged under a Working Forest Harvest Notice and  
8 shown on a revised map shall be filed with the Director by the timber owner(s) or the  
9 Designated Agent. If stocking is required to be met upon completion of timber operations the  
10 stocking report shall be submitted within six (6) months of the completion of operations. The  
11 minimum acceptable stocking standards on logged areas which were acceptably stocked prior  
12 to harvest are those specified in the Coast, Northern, and Southern Forest District rules. If not  
13 otherwise specified, the following minimum standards apply:

14 (1) On Site I timberlands as defined by the Board, the average residual basal area,  
15 measured in stems one inch or larger in diameter shall be at least 85 square feet per acre; or on  
16 Site II or lower shall be at least 50 sq. ft. per acre; or

17 (2) The area contains an average point count of 300 per acre on Site I, II, and III lands  
18 or 150 on Site IV and V lands as specified in PRC § 4561. See 14 CCR §§ 912.7, 932.7 and  
19 952.7 for information for the point count values of various size trees and for determining how  
20 sprouts will be counted toward meeting stocking requirements.

21  
22 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

23 Reference: Sections 4561, 4561.1 and 4587, Public Resources Code.

24  
25 **1094.28 Inspection of Stocking**

1 Within six (6) months of the receipt of the stocking report, the Director shall determine, by  
2 inspection, whether the stocking has been properly completed. If so, the Director shall issue a  
3 report of satisfactory completion of stocking. If not, the Director shall take such corrective action  
4 as the Director deems appropriate in accordance with the provisions of Article 8 (commencing  
5 with PRC § 4601).

6  
7 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

8 Reference: Sections 4588 and 4601, Public Resources Code.

9  
10 **1094.29 Five (5) Year Review of WFMP**

11 (a) The Department shall publish a public notice that the five (5) year review of the WFMP shall  
12 commence at least thirty (30) days prior to each five (5) year anniversary date of the WFMP  
13 approval. The published notice shall indicate that public comment on the five (5) year review  
14 shall be accepted during the thirty (30) day period. The public may submit to the review team  
15 additional information relevant to the purpose of the five (5) year review and the review team  
16 may consider this information when conducting its review. The Director shall distribute copies of  
17 the five (5) year review public notice to:

18 (1) The Office of the County Clerk of the county(s) in which the approved WFMP resides;

19 (2) The local CAL FIRE Unit headquarters for posting;

20 (3) At such other locations as the Director may deem desirable and feasible to provide  
21 adequate public notice;

22 (4) An publically available internet database.

23 (b)The Director shall prepare a five (5) year summary and convene a meeting with the  
24 interdisciplinary review team, pursuant to 14 CCR § 1037.5, within thirty (30) days of each five  
25 (5) year anniversary of a WFMP approval to review the plan's administrative record, information

1 obtained pursuant to 14 CCR § 1094.29(c), and any other information relevant to verify that  
2 completed or current operation(s) have been conducted in accordance with the plan and  
3 applicable laws and regulations. The Department shall provide the public, in writing or on a  
4 publically available internet database, a copy of the plan summary. Participation by review team  
5 agencies shall be at the discretion of each agency. If at this meeting a member of the review  
6 team determines that a field inspection is necessary to verify that operations have been  
7 conducted in accordance with the plan and applicable laws and regulations, then a field  
8 inspection may be conducted within sixty (60) days of each five (5) year anniversary date of  
9 WFMP approval.

10 (c) For the purposes of 14 CCR § 1094.29(b), each five (5) year review shall allow the review  
11 team to analyze information including the number of Working Forest Harvest Notices, the  
12 acreage operated under each Working Forest Harvest Notice, the violations received, the  
13 volume harvested in relation to projections of harvest in the WFMP and to determine if  
14 operations under Working Forest Harvest Notice(s) were conducted in compliance with the  
15 content and procedures in the WFMP. The review team shall also analyze any significant  
16 episodic events occurring during the previous five (5) years including disease and drought  
17 caused tree mortality, windthrow, wildfire and landslides. If the Department or a review team  
18 agency does not have direct access to information needed for the five (5) year summary, the  
19 Department may require the Working Forest Landowner(s) to provide this information. The  
20 Department shall notify the Working Forest Landowner(s) of the findings of the five (5) year  
21 review.

22 (d) If notices of violation have been issued, or the five (5) year review indicates potentially  
23 significant adverse impacts to the environment may occur from continuance of the WFMP, or if  
24 the Department is presented with a fair argument that a project may have a significant adverse  
25 effect on the environment, the Department shall provide written comments that a review of the

1 WFMP content and procedures may be necessary. The Director shall state any changes and  
2 reasonable conditions in the Director's professional judgment that are needed to bring  
3 operations into compliance with the applicable Board rules and regulations and offer to confer  
4 with the Designated Agent in order to reach agreement on the conditions necessary to bring the  
5 operations into compliance and to mitigate significant adverse effects on the environment  
6 identified during the five (5) year review. Failure to implement the changes or reasonable  
7 conditions provided by the Director or developed in conference with the Designated Agent may  
8 result in cancellation of the WFMP pursuant to 14 CCR §1094.31(b).

9 (e) The findings of the five (5) year review shall be completed by the Department within sixty  
10 (60) days of each five (5) year anniversary date of the WFMP approval, or within one hundred  
11 and five (105) days of each five (5) year anniversary date of the WFMP approval if a field  
12 inspection is completed.

13 (f) The findings of the five (5) year review shall be distributed on a publically available internet  
14 database.

15 (g) This section does not authorize the public disclosure of proprietary information without first  
16 obtaining the Working Forest Landowner's consent. Proprietary information shall be treated  
17 consistent with PRC § 21160 and GOV § 6254.7.

18  
19 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

20 Reference: Sections 4597.12 and 21160, Public Resources Code.

21  
22 **1094.30 Change of Timberland Owner(s)**

23 (a) Upon a change of ownership of the land described in the WFMP, the transferring timberland  
24 owner(s) shall provide the acquiring timberland owner(s) with a written Transfer of  
25 Responsibilities Notice that discloses the existence of the WFMP and informs the acquiring

1 timberland owner(s) of the need to notify the Department of the acquiring timberland owner(s)  
2 intent to assume the responsibilities of the WFMP. The transferring timberland owner(s) shall  
3 also send the Department a copy of the Transfer of Responsibilities Notice provided to the  
4 acquiring timberland owner(s).

5 (b) If the transferring timberland owner(s) fails to provide the Notice required in the 14 CCR §  
6 1094.30(a) and the Department discovers the change of ownership, the Department shall  
7 provide the acquiring timberland owner(s) with the Transfer of Responsibilities Notice.

8 (c) The acquiring timberland owner(s) shall have one (1) year from the date of receipt of the  
9 Transfer of Responsibilities Notice pursuant to either 14 CCR § 1094.30(a) or 14 CCR §  
10 1094.30(b), whichever is applicable, to notify the Department in writing of their intent to assume  
11 the responsibilities of the WFMP. If the Department does not receive notification within this  
12 period, the Department may cancel the WFMP.

13 (d) Upon transfer of ownership, the timberland owner(s) shall identify a Designated Agent  
14 pursuant to 14 CCR § 1094.10.

15 (e) A violation of this section by a timberland owner(s) does not constitute a crime pursuant to  
16 PRC § 4601.

17 (f) After a plan is found in conformance with the Board rules and regulations, the Director may  
18 file a Notice of Stocking Requirements on the property with the recorder of the county within  
19 which the plan is located if any area logged under a Working Forest Harvest Notice has not had  
20 a report of satisfactory stocking issued by the Director.

21  
22 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

23 Reference: Sections 4597.9 and 4601, Public Resources Code.

24  
25 **1094.31 Cancellation of Plans**

1 (a)The Working forest landowner(s) may cancel the WFMP by submitting a written notice to the  
2 Department. Once timber operations have commenced pursuant to a Working Forest Harvest  
3 Notice, cancellation is not effective on land covered by the Working Forest Harvest Notice until  
4 a report of satisfactory completion has been issued pursuant to PRC §§ 4585, 4586 and 4587.

5 (b) If the Department determines that the objectives of Unevenaged Management and  
6 Sustained Yield are not being met by a Working Forest Landowner(s), or there are other  
7 persistent violations detected that are not being corrected, the Department shall cancel a  
8 previously approved WFMP and any further timber operations under the plan shall be  
9 terminated. In making a determination to cancel a plan, the Department may cite the findings of  
10 a review conducted pursuant to PRC § Section 4597.12 and 14 CCR § 1094.29. Cancellation of  
11 the plan may be appealed by the plan submitter(s) or the Designated Agent utilizing the process  
12 pursuant to PRC § 4597.6(e)(1) and 14 CCR 1094.17(e).

13  
14 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

15 Reference: Sections 4585-4587, 4597.6, 4597.10, 4597.12, 4597.15 and 4597.16, Public  
16 Resources Code.

### 17 18 **1094.32 Transition or Expansion of Plans**

19 (a)If a landowner with an approved NTMP with less than 2,500 acres of timberland expands the  
20 total timberland ownership to 2,500 or more acres of timberland through acquisition of additional  
21 timberland they may transition into a WFMP through a substantial deviation to the NTMP.

22 (1) Operations may continue under an approved NTMP for a period of one (1) year after  
23 the acquisition of property that would result in exceeding 2,500 acres of timberland, if the  
24 landowner notifies the Director in writing of their intent to transition to a WFMP. The Director  
25 may grant up to an additional one (1) year of operations under the previously approved NTMP

1 to landowners who demonstrate substantial work has been conducted by a RPF(s) towards  
2 transitioning to a WFMP.

3 (2) The lack of demonstration of substantial work being conducted by a RPF toward  
4 transitioning to a WFMP shall result in cancellation of the NTMP by the Department.

5 (3) The RPF responsible for preparation of the substantial deviation to transition an  
6 approved NTMP to a WFMP shall review the contents of this article including, but not limited to,  
7 14 CCR §§ 1094.1 – 1094.3, 1094.6, 1094.10 - 1094.12, 1094.23, 1094.24 and 1094.32 to  
8 assure that all required information is included and addressed in the proposed substantial  
9 deviation prior to submittal to the Director.

10 (b) A Working Forest Landowner with an existing WFMP may expand the acreage of the WFMP  
11 pursuant to the process described in 14 CCR § 1094.23.

12  
13 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

14 Reference: Section 4597.17, Public Resources Code.

15  
16 **1094.33 Safe Harbor Agreement**

17 A participating landowner(s), in conjunction with the preparation of an application for a WFMP  
18 filed with the Department, may also seek approval of a Safe Harbor Agreement from the  
19 Department of Fish and Wildlife, pursuant to Article 3.7 (commencing with Section 2089.2) of  
20 Chapter 1.5 of Division 3 of the Fish and Game Code. All review costs associated with the Safe  
21 Harbor Agreement approval process incurred by the Department of Fish and Wildlife pursuant to  
22 this section shall be paid from the fund created in PRC § 4629.3.

23  
24 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

25 Reference: Sections 4597.18 and 4629.3, Public Resources Code.

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**1094.34 State Restoration Projects**

Notwithstanding any other law, if a person with a WFMP applies for state restoration grant funding for a restoration project that has a significant public benefit, the application shall not be summarily denied on the basis that the project is a required condition of the harvesting plan.

Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

Reference: Section 4597.19, Public Resources Code.

**1094.35 Southern Subdistrict**

This WFMP shall not apply to the Southern Subdistrict of the Coast Forest District, as defined in Section 14 CCR § 895.1.

Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

Reference: Section 4597.22, Public Resources Code.

**1104.1 Conversion Exemptions**

\*\*\*\*\* (i) Harvesting of large old trees shall only occur when:

- (1) the tree is not critical for the maintenance of a Late Successional Stand and
- (2) an RPF attaches to the exemption an explanation and justification for the removal based on the RPF's finding that one or more of the criteria or conditions listed under subsection (A), (B), or (C) are met. The requirements of (i)(2) need not be met if an approved management document; including but not limited to a HCP, SYP, NTMP, WFMP, or PTEIR; addresses large old tree retention for the area in which the large old tree(s) are proposed for removal and the removal is in compliance with the retention standards of that document. All trees to be

1 harvested pursuant to this subsection shall be marked by an RPF prior to removal. \*\*\*\*

2  
3 \*\*\*\*Note: Authority cited: Sections 4551, 4553, 4584, 4604, 4611 and 4628, Public Resources  
4 Code. Reference: Sections 4512, 4513, 4628, ~~and 4584,~~ and 4597 Public Resources Code. \*\*\*\*

### 6 **1115.3 Conduct of Hearing**

7 \*\*\*\*The Department shall conduct a public hearing upon timely request. A Departmental  
8 representative shall conduct the hearing. The Departmental representative should be familiar  
9 with the THP, NTMP or WFMP ~~Non-Industrial Timber Management Plan~~ under review. The  
10 purpose of the public hearing is to gather information from the public regarding the proposed  
11 timber operation. The public hearing is considered to be an integral part of the multidisciplinary  
12 review of the THP, ~~or~~ NTMP or WFMP. The comments of the public shall be electronically  
13 recorded by the Department, and may be recorded by any person present. No departmental  
14 action with regard to the approval or disapproval of a ~~timber harvesting plan or Non-Industrial~~  
15 ~~Timber Management Plan~~ THP, NTMP or WFMP shall occur at the public hearing. The  
16 Department representative that conducted the hearing shall submit a written report of the  
17 hearing to the Departmental employee responsible for approval or disapproval of the ~~plan~~ Plan.  
18 The Department shall provide written responses to significant issues raised at the public hearing  
19 in the official response of the director required by 14 CCR 1037.8. \*\*\*\*

20  
21 \*\*\*\*Note: Authority cited: Section 4582.6(b), Public Resources Code. Reference: Section  
22 4582.6(b), and 4597 Public Resources Code. \*\*\*\*

23  
24 **“Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic**  
25 **Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk**

2

3 **C. Design and Treatment Measures to Achieve Hydrologic Disconnection**

4 \*\*\*\*\*Treatment measures for existing logging roads are necessary where site-specific field  
5 observations indicate that key areas and problem indicators combine to result in significant  
6 existing or potential erosion sites. Proposed and reconstructed roads should be designed to  
7 achieve hydrologic disconnection to the extent feasible. Additional restrictions and requirements  
8 specified under 14 CCR § 923.4(a) [943.4(a), 963.4(a)] apply for new or reconstructed roads,  
9 while 14 CCR §§ 923.5(a) [943.5(a), 963.5(a)], and 923.6(g) and (h)(3) [943.6(g) and (h)(3),  
10 963.6(g) and (h)(3)] apply to existing roads.

11

12 Measures to hydrologically disconnect logging road segments include, but are not limited to:

- 13
- 14 • Installation of a road drainage facility or structure as close as possible to the  
15 watercourse crossing. Typically, this distance is 30 to 100 feet above the crossing  
16 (Refer to Figure 2), but may be up to 200 feet or more based on road drainage design  
17 and site-specific conditions. For example, the distance from the watercourse crossing to  
18 the road drainage facility or structure might be based on the location of where the  
19 buffering capacity of the filter strip is the greatest (i.e., densest vegetation and ground  
20 cover). Note that this spacing may be closer than the maximum distance specified  
21 under 14 CCR § 923.5(f) [943.5(f), 963.5(f)], or as needed for conformance with 14 CCR  
22 § 923.5(g) [943.5(g), 963.5(g)]. Depending on the road drainage design, the road  
23 drainage facility or structure can be a ditch drain (relief) culvert, rolling dip, waterbreak,  
24 or other effective facility or structure. Surface drainage designs or facilities that  
25 concentrate runoff (e.g., crowned or insloped road surfaces) require more buffering

1 distance between the drainage outlet and the watercourse than those that disperse  
2 runoff (e.g., outsloped road surfaces).

- 3  
4 • Installation of additional road drainage facilities or structures above (upgrade of) the  
5 closest road drainage facility or structure to the watercourse crossing that are  
6 appropriately sized and located in conformance with 14 CCR § 923.5(b) and (c)  
7 [943.5(b) and (c), 963.5(b) and (c)]. Maximum waterbreak spacing for roads is specified  
8 under 14 CCR § 923.5(f) [943.5(f), 963.5(f)]. Appropriate spacing for rolling dips is  
9 considered in Section II.C. of this Technical Rule Addendum.
  
- 10  
11 • Installation of ditch drains that are sufficiently spaced to: minimize ditch scour, prevent  
12 exceedance of ditch drain hydraulic capacity, and minimize erosion at drain outlets.  
13 Local experience, knowledge and site-specific conditions (e.g., hydrology, soil and  
14 geologic material present) should be considered by the RPF in the location and spacing  
15 of ditch drains. Spacing of ditch drains should be adjusted in response to: (1) poor  
16 filtering capacity or potentially unstable areas at the outlet (additional factors are listed in  
17 the following section), and (2) proximity to a watercourse. Near a watercourse, the ditch  
18 drain spacing should be closer so that smaller amounts of flow are routed down the  
19 ditchline, thus providing an added factor of safety for high flow conditions and potential  
20 failure of drainage facilities. An example of ditch drain (relief) spacing guidelines is  
21 displayed in Table 1 (see Section IV V of this addendum). In the preparation of THPs,  
22 NTMPs, WFMPs and PTHPs, RPFs may develop and use other spacing guidelines that  
23 better match the field conditions where their plans are proposed. For example, the RPF  
24 can observe the length of road necessary to initiate significant fill erosion and use these  
25 observations to adjust spacing guidelines to local conditions.\*\*\*\*\*

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**C. Logging Road Outsloping and Installation of Rolling Dips**

\*\*\*\*\*Outsloped roads are built with a slight angle of the road surface towards the outside edge (Refer to Figure 4). This configuration allows road surface runoff to drain in a dispersed manner over the fillslope onto undisturbed forest soils. As defined in 14 CCR § 895.1, outsloping means shaping the road surface to drain toward the outside edge of the logging road or landing.

Rolling dips are typically constructed on outsloped roads to ensure adequate drainage of the road surface. As defined in 14 CCR § 895.1, a rolling dip means a drainage facility that is constructed to remain effective while allowing passage of motor vehicles at reduced road speeds.

An outsloped road's running surface is considered hydrologically disconnected as long as runoff is effectively transported across rather than down the road surface, outside berms do not restrict runoff, and the road prism does not encroach upon the watercourse. Rolling dips should be installed on outsloped roads to ensure that surface flow is routed off the road surface in situations where outsloping alone may not be effective to prevent concentrating flow or eroding the fill (Refer to Figure 5). Outsloped roads with rolling dips are typically not appropriate for roads with a gradient in excess of ten percent (10%) because of the steepness of the dip approach grades that would be required and the added difficulty to effectively drain the road surface. The maximum amount of outsloping achievable depends on the type of traffic that will use the road (e.g., lowboys, log trucks, pickup trucks) and the road surfacing. Outsloped roads are not appropriate in all situations due to safety concerns, timing of use, or expected traffic (e.g., winter use in snow zones).

1 The spacing of rolling dips must be in conformance with 14 CCR § 923.5(g) [943.5(g), 963.5(g)].  
2 As with ditch drain (relief) culvert location, the location of rolling dips is to be modified based on  
3 the site buffering capacity at proposed installation locations and avoidance of concentrated flow  
4 onto unstable areas. Spacing of rolling dips is a function of: (1) road grade, soil erodibility, and  
5 road surface area draining to the dip, and (2) proximity to a watercourse. Near a watercourse,  
6 the rolling dip spacing should be closer so that smaller amounts of flow are routed towards each  
7 dip, thus providing an added factor of safety for high flow conditions and potential failure of  
8 drainage facilities. Local experience and knowledge of soil and geologic material present  
9 should be considered by the RPF in the location and spacing of rolling dips. An example of  
10 general rolling dip spacing guidelines is displayed in Table 1. In the preparation of THPs,  
11 NTMPs, WFMPs, and PTHPs, RPFs may develop and use other spacing guidelines that better  
12 match the field conditions where their plans are proposed.\*\*\*\*\*