Board of Forestry and Fire Protection

LISTED ANADROMOUS SALMONID AMENDMENTS, 2016

Title 14 of the California Code of Regulations (14 CCR),

Division 1.5, Chapter 4:

Subchapter 1, Article 1

Subchapter 2, Article 2

Amend:

§ 895.1 Definitions

***** "Watersheds with ~~l~~Listed ~~a~~Anadromous ~~s~~Salmonids" means any planning watershed where populations of anadromous salmonids that are listed as threatened, endangered, or candidate under the State or Federal Endangered Species Acts, are currently present or can be restored. This definition does not apply to those portions of watersheds that are upstream of barriers, including large dams (where removal and/or fishway construction has been determined by NMFS and CDFW to not be feasible) and natural barriers, such as long term bedrock falls or large static ancient slides with high-gradient or high-velocity barriers, that NMFS and CDFW have determined are permanent and preclude anadromous fish passage.

Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4562, 4562.5, 4562.7 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4525.5, 4525.7, 4526, 4528, 4551, 4551.5, 4561, 4562, 4562.5, 4562.7, 4583.2, 4584, 4591.1, 21001(f), 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed following Section 15387 of Title 14 Cal. Code of Regulations), *Laupheimer v. State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82 and *Joy Road Area Forest and*

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Watershed Association, v. California Department of Forestry & Fire Protection, Sonoma County Superior Court No. SCV 229850.

Amend:

§ 898.2 Special Conditions Requiring Disapproval of Plans.

The Director shall disapprove a plan as not conforming to the rules of the Board if any one of the following conditions exist:*****

*****(d) Implementation of the plan as proposed would result in either a "taking" or finding of jeopardy of wildlife species listed as rare, threatened or endangered, by the Fish and Game Commission, the National Marine Fisheries Service, or Fish and Wildlife Service, or would cause significant, long-term damage to listed species. The Director is not required to disapprove a plan ~~which would result in a "taking" if the "taking" is incidental and is authorized by a wildlife agency acting within its authority under state or federal endangered species acts.~~ under either of the following circumstances:

(1) Which would result in a "taking" if the "taking" is incidental and is authorized by a wildlife agency acting within its authority under state or federal endangered species acts.

(2) Where anadromous salmonid populations are designated as an Experimental Population under Section 10(j) of the Federal Endangered Species Act, and corresponding regulations under Section 4(d) of the Federal Endangered Species Act for those populations provide an exception from take prohibitions under the Federal Endangered Species Act for activities subject to the California Forest Practice Rules, and federal and state agencies determine no further take authorizations are necessary,

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under the Federal Endangered Species Act or the California Endangered Species Act.*****

*****Note: Authority cited: Sections 4551, 4555 and 4582, Public Resources Code. Reference: Sections 2053, 2080.1, 2090-2097, 2830 and 2835, Fish and Game Code; Sections 4555, 4582.7 and 4582.75, Public Resources Code; Section 51115.1, Government Code; the federal Endangered Species Act of 1973, 16 U.S.C. Section 1531 et seq.; and *Laupheimer v. State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

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