

**INITIAL STATEMENT OF REASONS**

**Sustained Yield Plan Renewal, 2009**

**[45 Day Notice Published March 20, 2009]**

**Title 14 of the California Code of Regulations (14 CCR):**

**Amend:**

§ 1091.9                      SYP Effective Period

**Adopt:**

§ 1091.15                    Renewal of Sustained Yield Plans

**PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATIONS ARE INTENDED TO ADDRESS**

This proposal to amend the existing Forest Practice Rules (FPRs) for Sustained Yield Plans (SYPs) is the result of the Board of Forestry and Fire Protection's (Board's) specific inquiry into the use and effectiveness of the existing Rules. The FPRs for SYPs have been little utilized since their adoption by the Board in 1993 following action by the legislature. Presently there are only three effective SYPs in existence, two of which are under the management of the same entity. As the Board seeks to promote sustained, long-term timber management planning across broader landscapes, it was compelled to try and understand why SYPs were not being utilized to the extent originally envisioned.

The Board's inquiry included several publicly-noticed, informal Board Management Committee meetings in which testimony was received from the two constituents working with SYPs as well as agency representatives and other interested parties. On July 10, 2008, the Board convened an SYP Workshop on the lands managed by the two constituents with SYPs that included the participation of representatives from the timber industry, state agencies, and environmental advocacy groups. The Workshop included discussion amongst participants about the history, limitations, and potential for increased utility of the existing regulations. As a result of this intense scrutiny, a number of specific problem areas were identified for possible remediation through amendment of the existing FPRs.

The specific problem area addressed in this regulatory proposal is related to the ten-year effective period of an SYP. It is clear that the Legislature intended that an SYP be valid for a maximum of ten years. It is likewise clear that they intended SYPs to be re-submitted over consecutive decades by the same ownership. However, the process for submittal and review of consecutive SYPs is not clearly described in the existing FPRs.

The Board recognizes that the lack of a clear process for renewal of existing SYPs in the current regulations is more likely than not to result in steadily diminishing interest in use of the three existing SYPs and any possible future SYP submissions. This regulatory proposal is intended to remedy the lack of clarity on the review and approval of successive SYP documents through specific rule language revision and additions.

## **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATIONS**

This regulatory proposal is intended to improve the functionality and usefulness of the existing Forest Practice Rules for Sustained Yield Plans. The suggested Rule language additions and clarifications specify the process by which an approved SYP may be “renewed” for another ten-year period.

## **ALTERNATIVES TO THE REGULATIONS CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES**

### **Alternative 1: No Changes to Current Forest Practice Rules.**

This alternative would cause no change to the current Forest Practice Rules for Sustained Yield Plans thereby preserving the absence of a process for renewal of existing SYP documents. This alternative does not meet the Board’s intent to encourage those currently utilizing the SYP process to continue operations under the guidance of an approved SYP. This alternative is therefore rejected.

### **Alternative 2: Require Same Period of Review for SYP Renewals as that of Original SYP Submissions.**

This alternative would eliminate the minimum 90-day time frame for agency and public review of SYP renewal submissions provided in this regulatory proposal. Instead, SYP renewals would be subject to the same minimum 140-day time period for agency and public review identified for original submissions. This alternative would completely void the utility of a renewal provision in the regulations.

Those currently utilizing the SYP process would have no other option but to treat each subsequent SYP submission as if it were the original submission. The likely result is that timberland owners currently operating under SYPs would allow the SYPs to expire and seek other less costly permitting options. This alternative does not meet the Board’s intent to encourage those currently utilizing the SYP process to continue operations under the guidance of an approved SYP. This alternative is therefore rejected.

### **Alternative 3: Pursue Legislative Change to Extend the Effective Period of an SYP.**

This alternative would require the Board to propose legislation that would lengthen the statutorily mandated effective period of an SYP by some indeterminate number of years, presumably at least an additional ten years. Such a legislative proposal could also include other modifications to the current regulation. The Board would have to identify a legislator willing to carry a bill of this kind and work through legislative staff, internal and external, to secure the votes necessary for passage.

Though legislative changes to the SYP statute are certainly possible, the Board is concerned that a prospective bill could face delays over successive legislative sessions. As expiration of the first of the three existing SYPs is anticipated to occur in 2011, the Board finds that time is of the essence and is compelled to seek regulatory over legislative change at this time. This alternative is therefore rejected.

## **POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS**

The Board finds that this proposed regulation would not result in significant adverse environmental effects. The existing Forest Practice Rules for Sustained Yield Plans already provide for comprehensive assessment and mitigation of potential adverse effects. This proposed regulation does not alter these existing provisions.

## **ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Board finds that this proposed regulation would not have an adverse impact on small business.

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

This regulatory proposal does not impose a requirement for its use upon commercial timberland owners, Licensed Timber Operators, Registered Professional Foresters, sawmills, or other wood product manufacturers. Use of the proposed amendments to the Forest Practice Rules for Sustained Yield Plans is purely voluntary.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The State Board of Forestry and Fire Protection consulted the following listed information and/or publications as referenced in this *Initial Statement of Reasons*. Unless otherwise noted in this *Initial Statement of Reasons*, the Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

1. California Forest Practice Rules, 2008. *Sustained Yield Plan*. 14 CCR §1091.1, *et seq.*
2. Board of Forestry and Fire Protection SYP Rulemaking File. 1993.
3. Board of Forestry and Fire Protection Sustained Yield Plan Workshop Proceedings, Dr. Douglas Piirto, Board Member, Chester, CA. July 10, 2008.
4. California Department of Forestry and Fire Protection Responses to SYP Workshop Questions. John Munn, *CAL FIRE*, July 8, 2008.

### **Pursuant to Government Code § 11346.2(b)(6)**

In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Initial Statement of Reasons*; the Board has directed the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

## **PROPOSED TEXT**

The proposed revisions or additions to the existing rule language are represented in the following manner:

The following revisions or additions to the existing rule language are represented in the following manner:

- underline indicates an addition to the California Code of Regulations, and ~~strikeout~~ indicates a deletion from the California Code of Regulations.

All other text is existing rule language.