

**Board of Forestry and Fire Protection**

**INITIAL STATEMENT OF REASONS**

**“WORKING FOREST MANAGEMENT PLAN”**

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

**Division 1.5, Chapter 4.5.**

**Amend: §§ 895, 895.1, 913.11 [933.11, 953.11], 916.5 [936.5, 956.5], 919.9 [939.9],  
923 [943, 963], 923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4 [943.4, 963.4], 923.5  
[943.5, 963.5], 923.9 [943.9, 963.9], 929 [949, 969], 945.1, 1038, 1090.26, 1104.1,  
1115.3 and 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 04/21/14)**

**Adopt: §§ 1090.28 and 1094-1094.35**

**INTRODUCTION INCLUDING PUBLIC PROBLEM, ADMINISTRATIVE  
REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION  
IS INTENDED TO ADDRESS (pursuant to GC § 11346.2(b)(1))...NECESSITY  
(pursuant to GC § 11346.2(b)(1) and 11349(a))....BENEFITS (pursuant to GC §  
11346.2(b)(1))**

Pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. (FPA) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

PRC § 4551 requires the Board to adopt forest practice rules and regulations to, among other things, “...assure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish and wildlife, and water resources.”

Pursuant to authority given to the Board in the FPA, the Board is proposing the following action to create the Working Forest Management Plan (WFMP) program. The proposed action is mandated by the legislature and administration through the recent passing of AB 904, AB 2239 and SB 1345, which chaptered and subsequently amended PRC §§ 4593.10 and 4597 et seq. It was the intent of the legislature, under AB 904, to structure the Working Forest Management Plan (WFMP) based on the existing Non-Industrial Timber Management Plan (NTMP).

Laws on which the proposed action is based:

1. AB 904 creates the Working Forest Management Plan (WFMP) program. The

WFMP is a long-term forest management plan available to nonindustrial landowners (with less than 15,000 acres of timberland) if they commit to uneven aged management and sustained yield. It also obligates the Board to adopt regulations needed to implement the provisions of AB 904 by January 1, 2016.

2. AB 2239 establishes a uniform process to ensure that a person who acquires timberlands described in a WFMP or NTMP receive notice on how to assume the plan. It also, gives discretion to (rather than mandates) the Department to cancel a WFMP or NTMP if the new landowner does not assume the plan within one year of receiving the notice.
3. SB 1345 corrects an erroneous cross-reference in PRC § 4597.22 to the regulations in the Forest Practice Rules describing the Southern Subdistrict of the Coast Forest District, which is excluded from the WFMP program.

The Board is proposing action:

1. To adopt an article of regulation (14 CCR Article 6.95, §§ 1094 through 1094.29 and 1094.31) to make specific the use of a Working Forest Management Plan (WFMP) and a Working Forest Harvest Notice pursuant to AB 904 chaptered in PRC §§ 4597-4597.16 and 4597.20-4597.21.

Specifically, a person who intends to become a working forest landowner, as defined, would be allowed to file a WFMP with the Department with the long-term objective of an unevenaged timber stand and sustained yield through the implementation of the WFMP. It would require numerous provisions including the following:

- A WFMP be prepared by a registered professional forester, be public record, and contain certain information.
- The Department to provide a minimum period for public comment, dependent on the size of the lands under the WFMP.
- The Department to determine if the WFMP is accurate, complete, and in proper order.
- The Director to return the WFMP if the Director determines that the WFMP is not in conformance, as provided.
- The working forest landowner who owns, leases, or otherwise controls or operates on all or any portion of any timberland within the boundaries of an approved WFMP and who harvests any of the timber during a given year to file a working forest harvest notice, as defined, with the Department in writing.
- The notice to be public record and to include certain information, including a statement that state or federally listed rare, threatened, candidate, or endangered plant or animal species have not been discovered in the harvest area since the approval of the WFMP.
- The Director to convene an interdisciplinary review team, as described, every 5 years to review an approved WFMP's administrative record, plan summary information, as specified, and any other information relevant to verify that operations have been conducted in accordance with the WFMP and applicable laws.

- The Department to cancel a previously approved WFMP if the Department determines that the objectives of unevenaged management and sustained yield are not being met or if there are other persistent violations, as provided.
2. To adopt 14 CCR § 1094.32 to regulate the transition of an approved NTMP into a WFMP and the expansion of acreage associated with an approved WFMP pursuant to AB 904 chaptered in PRC § 4597.17.
  3. To adopt 14 CCR § 1094.33 to suggest participants may also seek, simultaneously with the preparation of a WFMP, approval of a Safe Harbor Agreement from the Department of Fish and Wildlife (DFW) and that all review costs associated with the Safe Harbor Agreement Approval process incurred by DFW be paid from the Timber Regulation and Forest Restoration Fund pursuant to AB 904 chaptered in PRC § 4597.18.
  4. To adopt 14 CCR §§ 1090.28 and 1094.34, which would allow restoration projects, required as a condition in a NTMP or WFMP, that have a significant public benefit, to be eligible for State restoration grant funding pursuant to AB 904 chaptered in PRC § 4597.19.
  5. To adopt § 1094.35 to disallow the application of the WFMP in the Southern Subdistrict of the Coast Forest District pursuant to AB 904 chaptered in PRC § 4597.22. PRC § 4597.22 originally contained an incorrect reference and was subsequently corrected pursuant to SB 1345 chaptered in PRC § 4597.22.
  6. To amend 14 CCR § 1090.26 and adopt 14 CCR § 1094.30 regarding the change of ownership of land described in either a NTMP or a WFMP pursuant to AB 2239 chaptered in PRC §§ 4593.10 and 4597.9. Note: The balance of AB 2239 chaptered in PRC §§ 4597.2, 4597.15 and 4597.16 are related to clean up of AB 904 and are reflected in 14 CCR §§ 1094.3, 1094.7 and 1094.31, respectively.
  7. To amend existing Forest Practice Rules to incorporate reference to the WFMP into existing rules in 14 CCR §§ 895, 895.1, 913.11 [933.11, 953.11], 916.5 [936.5, 956.5], 919.9 [939.9], 923 [943, 963], 923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4 [943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9, 963.9], 929 [949, 969], 945.1, 1038, 1104.1, 1115.3 and 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 04/21/14).

The problem addressed by the proposed action is the increasing cost of timber management and the consequent adverse impacts including, conversion, habitat fragmentation, decreasing forest health and decreasing timber industry infrastructure.

The primary purpose of the proposed action is to provide nonindustrial landowners (with less than 15,000 acres of timberland) greater opportunities for cost-effective timber management than currently exist.

The effect of the proposed action would be to create the Working Forest Management Plan (WFMP) program, based on the model of the Nonindustrial Timber Management Plan (NTMP) program, which would require preparation of a Plan that would allow for

long-term approval with certain conditions, such as the use of uneven aged forest management and proof that operations provide for sustained yield and stricter environmental standards (relative to the NTMP).

Raising the acreage to less than 15,000 acres through the WFMP will make hundreds of thousands of additional timberland acreage eligible for long-term, sustainable management. The benefits of which include:

- Making non-industrial forest properties more economically viable by relieving eligible landowners of some of the costs and burdens of meeting the regulatory requirements designed for industrial timber companies, consequently curtailing conversion and habitat fragmentation, increasing the opportunity for management to improve forest health and reducing the rate of loss of timber industry infrastructure.
- Incentivizing unevenaged management, which may afford increased carbon sequestration, conservation of scenic values and protection of water quality and fish and wildlife habitat.
- Incentivizing the purchase of additional timberlands. NTMP landowners who are close to the NTMP's 2,500 acreage limit may purchase additional timberlands once they have the option to transfer to a WFMP. Some NTMP landowners near the 2,500 acre limit have already indicated that they plan to acquire more timberlands if the WFMP program is enacted.
- The rigorous timber inventory standards that are subject to periodic review and verification by the Department will ensure achievement of other long-term benefits upon the environment including fire resiliency, improved fish and wildlife habitat, aesthetics, and added carbon sequestration (PRC §4597(a)(5))

The proposed WFMP program is modeled from the NTMP program; however, it applies to nonindustrial landowners with up to 15,000 acres of timberland and contains stricter environmental standards. The NTMP was created by the Legislature in 1990 to allow landowners with up to 2,500 acres to apply for a timber harvesting document that would allow for long-term approval with certain conditions, such as the use of unevenaged forest management and proof that operations provide for sustained yield.

Through an NTMP, a nonindustrial timberland owner first prepares a management plan that is subject to an interdisciplinary review process and acts as the functional equivalent of an EIR under CEQA. The cost of preparing this management plan is greater than a typical THP. However, unlike a THP, which is good for no more than seven years, a NTMP lasts in perpetuity and the additional cost may be recaptured over time because subsequent harvest entries can be conducted under a much simpler notice to the Department that is tiered off of the NTMP.

Today, NTMPs cover over 300,000 acres of California forests. Raising the acreage limit to 15,000 acres through the WFMP will make hundreds of thousands of additional timberland acreage eligible for long-term, sustainable management. The California Department of Forestry and Fire Protection issued a preliminary report in January of 2013 titled *NTMP Expansion Study* that sought to identify the number of forestland

owners that would be eligible for an NTMP if the acreage cap was lifted from 2,500 acres to 15,000 acres. This report identified 81 landowners with ownerships between 2,500 and 15,000 acres. However, given the exclusion of ownerships within the Southern Subdistrict of the Coast Forest District, for which the WFMP statute does not apply, the revised estimate of forestland owners with ownerships between 2,500 and 15,000 acres that are eligible for a WFMP is 67. In fact, the number of forestland owners eligible for a WFMP is higher, but is unknown, because there are a couple of other pathways for timberland owners to become eligible for a WFMP. First, a collection of two (2) or more landowners with a combined acreage of timberlands less than 15,000 acres may file a WFMP jointly and second, the owner of less than 2,500 acres of timberland may acquire ownership of additional acres.

At least 60 of the 81 landowners identified in the report used even aged management (i.e., clear cutting) at some point. These landowners would have an incentive to commit to long-term uneven aged management under a WFMP. Incentivizing unevenaged management and requiring a rigorous timber inventory that is subject to periodic review and verification by the Department will ensure achievement of other long-term benefits upon the environment including fire resiliency, improved fish and wildlife habitat, aesthetics, and added carbon sequestration (PRC §4597(a)(5)).

In 2003, the Department issued a report on the NTMP program. The report explained that the NTMP program provides significant benefits to the State in a number of terms including societal benefits.

- The report states that "[r]etaining our non-industrial private forest lands in forest use provides tremendous...benefits, including retention of open space, protection of watersheds, water quality and forest soils, maintenance of diverse habitat for fish and wildlife, preservation of important cultural and historical sites, and promotion of recreational opportunities."
- "These benefits are all enhanced by the commitment of forest landowners to the long term stewardship and sustainable production requirements of a NTMP. On the broad statewide scale, the overarching public benefit is in encouraging owners of these small wooded parcels to take advantage of their rich forest soils, to enrich and improve their timber stands, to manage them sustainably into the future, and cumulatively retain that part of the state's rural, working landscape that characterizes California's private timberlands."
- The 2003 report concluded that "the NTMP program is meeting the uneven-aged management requirement of the Forest Practice Act...[and given] sufficient time to implement current NTMP management prescriptions, landowners will also be able to show that they are meeting the sustained yield requirement. Therefore, [the Department] has determined that the NTMP program is improving California's timberlands and recommends that the program be continued."
- Additionally, the report recommended that the NTMP acreage limit be increased to bring more timberlands into the program. "This change would benefit both landowners and the state by providing an opportunity for these additional timberlands to be placed into a sustained yield and uneven-aged management regime." Note: The proposed action essentially implements this recommendation.

The history of the development of this regulation is as follows:

- Published 45-Day Notice on January 16, 2015.
- Published Decision Not To Proceed on May 1, 2015.
- Published 45-Day Notice on May 1, 2015.
- Published Notice of Addition of Documents and Information to Rulemaking File on September 01, 2015.
- Withdrew from OAL, to avoid disapproval, on November 25, 2015. OAL determined that the file could not be approved based on issues of clarity, consistency, some necessity, failure to follow APA procedures, and other miscellaneous issues
- Published Decision Not To Proceed on February 19, 2016.

**SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL (pursuant to GOV § 11346.2(b)(1)) AND THE RATIONALE FOR THE AGENCY'S DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSE(S) OF THE STATUTE(S) OR OTHER PROVISIONS OF LAW THAT THE ACTION IS IMPLEMENTING, INTERPRETING OR MAKING SPECIFIC AND TO ADDRESS THE PROBLEM FOR WHICH IT IS PROPOSED (pursuant to GOV §§ 11346.2(b)(1) and 11349(a) and 1 CCR § 10(b)). *Note: For each adoption, amendment, or repeal provide the problem, purpose and necessity.***

The proposed action is mandated by the legislature and administration through the recent passing of AB 904, AB 2239 and SB 1345, which chaptered and subsequently amended PRC §§ 4593.10 and 4597 et seq. It was the intent of the legislature, under AB 904, to structure the Working Forest Management Plan (WFMP) based on the existing Non-Industrial Timber Management Plan (NTMP).

The problem addressed by the proposed action is the increasing cost of timber management and the consequent adverse impacts including, conversion, habitat fragmentation, decreasing forest health and decreasing timber industry infrastructure.

The primary purpose of the proposed action is to provide nonindustrial landowners (with less than 15,000 acres of timberland) greater opportunities for cost-effective timber management than currently exist.

The effect of the proposed action would be to create the Working Forest Management Plan (WFMP) program, based on the model of the Nonindustrial Timber Management Plan (NTMP) program, which would require preparation of a Plan that would allow for long-term approval with certain conditions, such as the use of uneven aged forest management and proof that operations provide for sustained yield and stricter environmental standards (relative to the NTMP).

**Explanation for why the Proposed Action Duplicates and/or Rephrases Statute**

### **and Existing Rules**

In several instances the language contained within the proposed amendments and adoptions, duplicates language within PRC §§ 4561, 4593.10 and 4597 et seq. and 14 CCR §§ 895, 895.1, 912.7 [932.7, 952.7], 913.10 [933.10, 953.10], 923.1 [943.1, 963.1], 923.9 [943.9, 963.9], 1054, 1071 and 1090-1090.27.

Since, it was the intent of the legislature, under AB 904, to structure the Working Forest Management Plan (WFMP) off of the existing Non-Industrial Timber Management Plan (NTMP), which contains duplicated language from statute (PRC § 4593 et seq.), the Board chose to duplicate statute (PRC § 4597 et seq.) in the proposed action to maintain consistency.

The legislative intent of AB 904, pursuant to PRC § 4597(a)(3), is for the WFMP rules to be modeled after the NTMP rules. Many of the provisions in the proposed WFMP rules need to be substantially the same as the provisions in the NTMP rules because they are similar programs, the type of regulated public is similar and the enforcement is similar.

Duplication was also used as a tool to achieve clarity by making the proposed amendments and adoptions congruent with existing rules and statute and to provide context and have all related information in one place so that the burden of having to reference both statute and other portions of the Forest Practice Rules is not placed on the regulated public.

Finally, duplication of the existing NTMP regulations in the proposed action was determined to be a prudent measure because the existing NTMP regulations were developed and informed by experts in the field of forestry and were developed through a collaborative effort between landowner, industry, agency and environmental representatives and were subsequently used to develop PRC § 4597 et seq. on which the proposed action is based.

Where the statute is made specific or interpreted an explanation, regarding why the proposed rule is reasonably necessary to carry out the purpose and to address the problem for which it is proposed, is provided.

### **Aggregated Explanation**

Added 4597, where applicable, to Reference to reflect the WFMP statute.

The proposed amendments to these sections also capitalize the term “Plan” to reflect that it is a defined term.

### **Amend 14 CCR § 895 Abbreviations Applicable Throughout Chapter**

The proposed amendment to this section includes a reference to the Working Forest Harvest Plan through the abbreviation of “WFMP”. The acronym “WFMP” is used throughout the proposed amendments and adoptions for purposes of brevity. It was noted in comment provided by the Department that any abbreviated terms that are utilized within the Forest Practice Rules (FPRs) need to be clearly defined within 14

CCR § 895, and therefore the Board proposes to include the defined acronym, which is necessary for the regulated public to understand the abbreviations used throughout this chapter.

#### **Amend 14 CCR § 895.1 Definitions**

The proposed amendments to this section adds the Working Forest Management Plan (WFMP) to the definition of “Plan”, which is necessary so the WFMP is held to the same standards as other “Plans”, where the term is used within the scope of § 1094. Otherwise, confusion would be introduced associated with the term “Plan” in existing regulation because it would not be clear to the regulated public what standards apply to the WFMP. This proposed amendment is substantively related to § 1094.

The proposed amendments to this section also add “WFMP” in the definition of “Current Archaeological Records Check”. The “Current Archaeological Records Check” is referenced in several locations within 14 CCR § 929 regarding the requirements for the identification and protection of cultural resources that may be affected during implementation of a WFMP. This amendment is necessary to make it clear that the records check must have been conducted within five years prior to the date a WFMP is submitted to the Director to be current.

The proposed amendments to this section also add “, pursuant to the Administrative Procedure Act” to the definition of “Rules” for clarity.

#### **Amend 14 CCR § 913.11 [933.11, 953.11](a)-(c) Maximum Sustained Production of High Quality Timber Products**

The proposed amendments to these sections add “WFMP”, where NTMP is used, for consistency and clarity. The proposed amendments are necessary to direct the project proponent to the options under which the WFMP must meet the objective of Maximum Sustained Production of High Quality Timber Products as required by statute (PRC § 4513). These options do not occur in a vacuum and the project proponent must also meet the requirements of the provisions specific to the WFMP related to this subject.

The proposed amendments to this section also add “, Subchapter 7, Chapter 4, Division 1.5, Title 14 of the California Code of Regulations” to provide clarity regarding the location of Article 6.8, so that the regulated public could more easily find it.

#### **Amend 14 CCR § 916.5 [936.5, 956.5](e) Procedures for Determining Watercourse and Lake Protection Zone (WLPZ) Widths and Protective Measures**

The proposed amendments to these sections add “WFMP”, where NTMP is used, for consistency and clarity. The proposed amendments specify that sample identification of the WLPZ prior to the preharvest inspection may be allowed, which is necessary due to the large acreage of timberland, up to 15,000 acres, that could be contained within a WFMP, to allow Registered Professional Foresters (RPFs) to prepare, and landowners to pursue, a WFMP without have to conduct unnecessary upfront work and endure unnecessary expense during the preparation of a proposed WFMP. At the same time ensuring the protection of values related to watershed and aquatic habitat during implementation of the WFMP. Sample identification and marking of the watercourses



prior to the preharvest inspection is necessary for agency evaluation of rule compliance prior to approval of the WFMP.

**Amend 14 CCR § 919.9 [939.9] Northern Spotted Owl**

The proposed amendments to these sections add “WFMP”, where NTMP is used, for consistency and clarity. The proposed amendments specify that a WFMP located in the Northern Spotted Owl Evaluation Area or within 1.3 miles of a known northern spotted owl activity center outside of the Northern Spotted Owl Evaluation Area shall follow one of the procedures required in subsections (a)-(g), which is necessary to enable the Director to evaluate whether or not the proposed activity would result in the "take" of an individual northern spotted owl.

**Amend 14 CCR § 923 [943, 963](c)-(d) Intent for Logging Roads, Landings, and Logging Road Watercourse Crossings**

The proposed amendments to these sections add §§ 1094.23 and 1094.24, which are the proposed deviation processes for the WFMP. The proposed amendments specify exceptions to 923 [943, 963] et seq. may be provided through application of Fish and Game Code Section 1600 et seq. and shall be made an enforceable part of the Plan in accordance with the proposed deviation processes for the WFMP, which is necessary to inform the regulated public of the two (2) processes by which new information may be incorporated into an approved WFMP as an enforceable provision.

**Amend 14 CCR § 923.2 [943.2, 963.2](a)(5)-(6) Design and Location of Logging Roads and Landings**

The proposed amendments to these sections update the revision date of the 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 from 10/27/14 to 04/21/15 (TRA #5), which is necessary to provide the regulated public with an updated reference to TRA #5. TRA # 5 was incorporated by reference in the Road Rules approved in June of 2014.

The proposed amendments to these sections are substantively related to amendments to “Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings” (~~1st Edition, revised 10/27/14~~) (1st Edition, revised 04/21/15)”.

**Amend 14 CCR § 923.3 [943.3, 963.3](a) Mapping and Identification of Logging Roads and Landings**

The proposed amendments to these sections provide cross reference to the provisions in §§1094.6 and 1094.8 that provide the WFMP specific mapping requirements for logging roads and landings, which is necessary for clarity, consistency and to increase efficiency.

The proposed amendments to these sections are substantively related to the following adoptions: §§1094.6(e)(4)-(5), (11) and (15) - (16) and 1094.8(u)(4)-(7) and (13)-(14).

### **Amend 14 CCR § 923.4 [943.4, 963.4](a) Construction and Reconstruction of Logging Roads and Landings**

The proposed amendments to these sections add §§ 1094.23 and 1094.24, which are the proposed deviation processes for the WFMP. The proposed amendments specify that if a change in designation of logging road classification is made after the Plan is approved, the change shall be reported in accordance with the proposed deviation processes for the WFMP, which is necessary to inform the regulated public of the two (2) processes by which new information may be incorporated into an approved WFMP.

The proposed amendments to these sections also update the revision date of the 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 from 10/27/14 to 04/21/15 (TRA #5), which is necessary to provide the regulated public with an updated reference to TRA #5. TRA # 5 was incorporated by reference in the Road Rules approved in June of 2014.

The proposed amendments to these sections are substantively related to §§ 1094.23 and 1094.24 and amendments to “Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings” (~~1st Edition, revised 10/27/14~~) (1st Edition, revised 04/21/15)”.

### **Amend 14 CCR § 923.5 [943.5, 963.5](a) and (g)-(h) Erosion Control for Logging Roads and Landings**

The proposed amendments to these sections update the revision date of the 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 from 10/27/14 to 04/21/15 (TRA #5), which is necessary to provide the regulated public with an updated reference to TRA #5. TRA # 5 was incorporated by reference in the Road Rules approved in June of 2014.

The proposed amendments to these sections are substantively related to amendments to “Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings” (~~1st Edition, revised 10/27/14~~) (1st Edition, revised 04/21/15)”.

### **Amend 14 CCR § 923.9 [943.9, 963.9](m)(2) and (o) Watercourse Crossings**

The proposed amendments to these sections update the revision date of the 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 from 10/27/14 to 04/21/15 (TRA #5), which is necessary to provide the regulated public with an updated reference to TRA #5. TRA # 5 was incorporated by reference in the Road Rules approved in June of 2014.

The proposed amendments to these sections are substantively related to amendments to “Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic

Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings” (1st Edition, revised 10/27/14) (1st Edition, revised 04/21/15)”.

**Amend 14 CCR § 929 [949, 969](b) Statement of Purpose**

The proposed amendment to these sections adds “WFMP”, where NTMP is used, for consistency and clarity. The proposed amendment emphasizes to the regulated public that the existing archaeological and historical resource protection regulations apply to the WFMP and is necessary to ensure that significant archaeological and historical sites within the WFMP are adequately identified and protected.

**Amend 14 CCR § 945.1(a) and (b) Statement of Purpose**

The proposed amendments to this section replaces the word “insure” with the word “ensure” for proper context and is necessary to increase the clarity of this section. The intention of the rule section is to ensure, or make certain, that these resources are identified and protected. The use of “insure” could cause the regulated public to misconstrue the purpose of this section.

The proposed amendments to this section also add “WFMP”, where NTMP is used, for consistency and clarity. The proposed amendment emphasizes to the regulated public that the existing Lake County rules apply to the WFMP and is necessary to ensure that the visual and aesthetic sites identified within the Scenic Combining District within the WFMP are adequately identified and protected.

**Amend 14 CCR § 1038(h)(2) Exemption**

The proposed amendment to this section adds “WFMP”, where NTMP is used, for consistency and clarity. The proposed amendment specifies the requirements of 14 CCR § 1038 (h)(2) need not be met if an approved WFMP 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 the approved WFMP and is necessary to prevent the project proponent from duplicating the analysis of large old trees contained in the approved WFMP.

Struck PRC § 4584.1 from Authority cited to remove unnecessary redundancy.

**Amend 14 CCR § 1090.26(a)-(d) Change of Ownership Timberland Owner(s)**

The proposed amendments to this section add provisions (a) through (d) and reorders the existing provision to (e). Provisions (a) through (d) restate PRC § 4593.10, which was chaptered by the passage of AB 2239, which establishes a uniform process to ensure that a person who acquires timberlands described in a WFMP or NTMP receive notice on how to assume the plan. It also, gives discretion to (rather than mandates) the Department to cancel a WFMP or NTMP if the new landowner does not assume the plan within one year of receiving the notice.

The proposed amendments requires timberland owner(s) to provide the acquiring timberland owner(s) with a written Transfer of Responsibilities Notice that discloses the existence of the NTMP and informs the acquiring timberland owner(s) of the need to

notify the Department of the acquiring timberland owner(s) intent to assume the responsibilities of the approved NTMP. The transferring timberland owners would also be responsible for supplying the Department with a copy of the Transfer of Responsibilities Notice that was provided to the acquiring timberland owner(s). Additionally, if the Department discovers a transfer of ownership of timberland that is covered by an approved NTMP that the agency was not notified about, it then becomes the responsibility of the Department to provide the acquiring timberland owner(s) with the Transfer of Responsibilities Notice. The acquiring timberland owner(s) shall have one (1) year from the date of receipt of the Transfer of Responsibilities Notice from either the transferring timberland owner or the Department, whichever is applicable, to notify the Department in writing of their intent to assume the responsibilities of the NTMP. If the Department does not receive notification within this period, the Department may cancel the NTMP

**1090.26(a)** is necessary to ensure an acquiring timberland owner(s) is notified of the existence of a NTMP and the acquiring timberland owner's responsibility to notify the Department should they want to assume responsibility for the NTMP. Providing a copy of this notification to the Department allows the Department to determine if the process described in subsection (b) is necessary.

**1090.26(b)** is necessary to provide notification to an acquiring timberland owner(s) of the existence of a NTMP should the transferring timberland owner(s) fail to do so.

**1090.26(c)** is necessary to provide the acquiring timberland owner(s) enough time to evaluate the provisions within the NTMP while providing the Department with assurance that the decision will be made in a timely manner. Providing this decision in writing allows the Department to maintain a complete record of the change in timberland owner(s). The provision allowing the Department to cancel a plan after the time period expires will prevent the Department from holding open, for an indefinite period of time, a NTMP that has no responsible timberland owner.

**1090.26(d)** is necessary to prevent these regulations from creating a new crime that may burden local law enforcement agencies.

### **Adopt § 1090.28 State Restoration Projects**

The proposed adoption restates PRC § 4597.19, it informs the regulated public that an entity with a NTMP may be eligible for state restoration grants. This is necessary because many state restoration grants exclude work that is otherwise required to be completed under a timber harvesting plan.

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

#### **Adopt § 1094 Rule Application**

The purpose of this section is to make clear that where the abbreviation THP, the term Timber Harvesting Plan, or the word Plan is used in Chapter 4, Subchapters 1 through 6 and Chapter 4.5 it shall also mean Working Forest Management Plan as specified in PRC § 4597 et seq. and that in Subchapter 7 this equivalency will occur for all sections

except 1032.7 through 1042 that are not referenced in this Article, or as otherwise specified.

This section is necessary to ensure the WFMP is held to the same standards as other “Plans”, where the term is used within the scope of § 1094, including key requirements such as the obligation to provide the cumulative effects assessment. Otherwise, confusion would be introduced associated with the term “Plan” in existing regulation because it would not be clear to the regulated public what standards apply to the WFMP.

Pursuant to §1094, every time the word “Plan” is used in any of the sections referenced, it shall also mean WFMP unless the context is otherwise indicated in that provision such as in 14 CCR § 914.7 that references “winter operating plan”, which is defined in that section. “LTSY plan” is referenced in § 1094.6(n)(1), where the use of plan is loose and is more an estimate and associated parameters within the WFMP, the constraints and contents of which are provided in § 1094.6. The regulated public will not be confused by the use of the term “Plan” because it is of general knowledge that when the term “Plan” is used in sections such as 916.2(a)(2), 916.4(b), 916.9(b), 916.9(f)(1), 923.5(q)(2) and 936.6(a)(1)(E), it shall apply to THPs, NTMPs and PTHPs and WFMPs alike.

This section restates 14 CCR § 1090 and is substantively related to the amended definition of “Plan” in 14 CCR § 895.1 in which the inclusion of WFMP is proposed.

#### **Adopt § 1094.1 Working Forest Management Plan and Working Forest Harvest Notice Filing Locations**

The proposed adoption specifies that the WFMP or Working Forest Harvest Notice shall be submitted in writing to the Director at the appropriate CAL FIRE Review Team Office specified under 14 CCR § 1032 and shall contain, at a minimum, the information specified in 14 CCR §§ 1094.6 or 1094.8, which is necessary to provide clear direction to the regulated public of the appropriate CAL FIRE Review Team Office to submit a WFMP or Notice and the information it is required to contain.

This provision is substantially the same as 14 CCR § 1090.1, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP.

#### **Adopt § 1094.2(a)–(m) Definitions**

The proposed adoptions define terms to be used in Article 6.95, Working Forest Plan Administration, and are necessary to provide the regulated public with clear definitions of the terms used in the WFMP program and facilitate Department enforcement of the provisions of the WFMP. The definitions proposed for adoption apply only to Article 6.95 and do not apply to other Articles contained within the FPRs.

#### **Adopt § 1094.2(a) Definition of “Designated Agent”**

The proposed adoption of the definition of “Designated Agent” is for the purpose of reducing the enforcement issues that the Department has experienced with the

management of NTMPs with multiple landowners. The Department requested that a single point of contact be designated for each WFMP so that administrative processes and land management decisions for landowners participating in WFMPs are communicated to the Department through one entity, which resulted in the development of the “Designated Agent”. The “Designated Agent” is that single point of contact for all landowners participating in a WFMP. Responsibilities of the “Designated Agent” are provided in subsequent sections proposed for adoption. The “Designated Agent” also provides a responsible party during any compliance and enforcement issues resulting from any deficiencies during WFMP administration.

**Adopt § 1094.2(b) Definition of “Late Succession Forest Stands”**

The proposed adoption of the definition of “Late Succession Forest Stands” duplicates the definition of “Late Succession Forest Stands” found in PRC § 4597.2(g)(3) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(c) Definition of “Long Termed Sustained Yield (LTSY)”**

The proposed adoption of the definition of “Long Termed Sustained Yield (LTSY)” duplicates the definition of “Long Termed Sustained Yield (LTSY)” found in PRC § 4597.1(a) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(d) Definition of “Major Stand Type”**

The proposed adoption of the definition of “Major Stand Type” duplicates the definition of “Major Stand Type” found in PRC § 4597.1(b) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(e) Definition of “Management Unit”**

The proposed adoption of the definition of “Management Unit” duplicates the definition of “Management Unit” found in PRC § 4597.1(c) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(f) Definition of “Stand”**

The proposed adoption of the definition of “Stand” duplicates the definition of “Stand” found in PRC § 4597.1(d) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(g) Definition of “Strata”**

The proposed adoption of the definition of “Strata” duplicates the definition of “Strata” found in PRC § 4597.1(e) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(h) Definition of “Sustained Yield”**

The proposed adoption of the definition of “Sustained Yield” duplicates the definition of “Sustained Yield” found in PRC § 4597.1(f) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(i) Definition of “Unevenaged Management”**

The proposed adoption of the definition of “Unevenaged Management” duplicates the definition of “Unevenaged Management” found in PRC § 4597.1(g) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(j) Definition of “Working Forest Harvest Notice”**

The proposed adoption of the definition of “Working Forest Harvest Notice” is substantially the same as the definition of “Working Forest Harvest Notice” found in PRC § 4597.1(h), except that it replaces references to relevant portions of statute with relevant portions of this Article (specifically § 1094.8), and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(k) Definition of “Working Forest Landowner”**

The proposed adoption of the definition of “Working Forest Landowner” duplicates the definition of “Working Forest Landowner” found in PRC § 4597.1(i) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(l) Definition of “Working Forest Management Plan”**

The proposed adoption of the definition of “Working Forest Management Plan” is substantially the same as the definition of “Working Forest Management Plan” found in PRC § 4597.1(j), except that more specificity is provided regarding “other important values” and makes clear that a WFMP shall be less than 15,000 acres of timberland, and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.2(m) Definition of “Working Forest Timberlands”**

The proposed adoption of the definition of “Working Forest Timberlands” duplicates the definition of “Working Forest Timberlands” found in PRC § 4597.1(k) and is for the purpose of having all related information in one place so that the burden of having to reference statute is not placed on the regulated public.

**Adopt § 1094.3 WFMP Submittal and Notice of Preparation**

The proposed adoption is a preamble that specifies that a WFMP must be prepared by an RPF, shall be public record, shall include the information required by § 1094.6 and shall meet the conditions of § 1094.3(a) – (g), which is necessary to inform the regulated public the minimum conditions required for the preparation of a WFMP and to provide context.

This preamble is a restatement of the preamble found in PRC § 4597.2 with additional specificity.

**Adopt § 1094.3(a)**

The proposed adoption specifies that a WFMP shall be submitted by the person(s) who owns the timberland included the WFMP and is substantially the same as 14 CCR § 1090.2(a), the comparable provision in the NTMP rules, and is necessary to identify the person responsible for submitting a WFMP for clarity and accountability.

**Adopt § 1094.3(b)**

The proposed adoption specifies that when a timberland owner submits a WFMP of which the timber, or a portion thereof, is owned by another party, the timberland owner must supply a prompt written notice to the timber owner of WFMP submittal. This provision is substantially the same as 14 CCR § 1090.2(b), the comparable provision in the NTMP rules, and is necessary to ensure timely communication between the timberland owner and the timber owner, upon submission of a WFMP, when these two parties are not the same.

**Adopt § 1094.3(c)(1)-(3)**

The proposed adoptions specify the conditions under which a Notice of Preparation must be prepared and submitted to the Director. The conditions are (1) if any of the proposed plan boundaries lie within 300 feet of property owned by another person other than the plan submitter (2) if any deviation changes a plan boundary where the new plan boundaries of the additional area added to the plan lies within 300 feet of property owned by another person other than the plan submitter or (3) if any deviation changes the silvicultural method if a Notice of Preparation was required for the WFMP by conditions (1) or (2).

These provisions are necessary to ensure adjacent property owners are notified of the proposed operations under the WFMP, which allows them to evaluate whether they would like to review the entirety of the WFMP or provide public comment during the interdisciplinary review process.

These provisions are substantially the same as 14 CCR § 1090.2(c)(1)-(3), the comparable provisions in the NTMP rules.

**Adopt § 1094.3(d)(1)-(7)**

The proposed adoptions specify the information that shall be included in the Notice of Preparation. The information being required is (1) the name(s) of the plan submitter (2) the legal description of the Plan area, including county, and the approximate direction and distance to the Plan area from the nearest community or well-known landmark (3) the name of the nearest perennial blue line stream flowing through or downstream from the Plan area (4) the acreage of the WFMP area and the acreage of the Working Forest Timberlands within which timber operations under the WFMP are to be conducted (5) the silvicultural method(s) proposed (6) the estimated earliest date that the Director may



approve the Plan pursuant to § 1094.17 and (7) a statement that the public may review the plan at the specified CAL FIRE Review Team Office and that the Director may set a reasonable per page fee for copies requested by the public.

These provisions are necessary to provide basic information about the nature of the proposed operations under the WFMP to the person(s) identified in provision § 1094.3 (e) and to the interested public. This basic information allows the interested public to evaluate whether they would like to review the entirety of the WFMP or provide public comment during the interdisciplinary review process.

These provisions are substantially the same as 14 CCR § 1090.2(d)(1)-(7), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP.

#### **Adopt § 1094.3(e)**

The proposed adoption specifies that the plan submitter(s) is responsible for providing the Department a copy of the names of all landowners who own property within 300 feet of the proposed WFMP and provides guidance on acceptable standards on how to generate the list of landowner names.

This provision is necessary to establish the process that results in a list of adjacent property owners and identifies that the plan submitter is responsible for furnishing the list to the Department.

This provision is substantially the same as 14 CCR § 1090.2(e), the comparable provision in the NTMP rules. This provision was also informed by PRC § 4597.3.

#### **Adopt § 1094.3(f)**

The proposed adoption specifies that the Department is responsible for mailing copies of the Notice of Preparation to all persons identified by the Plan Submitter(s) in § 1094.3(e) within two working days of the receipt of the Plan.

This provision is necessary to establish the process that results in the adjacent property owners, identified in § 1094.3(e), receiving the Notice of Preparation and identifies that the Department is responsible for executing the mailing, which is necessary to ensure adjacent property owners are notified in a timely manner of and receive basic information about the nature of the proposed operations under the WFMP. This basic information allows them to evaluate whether they would like to review the entirety of the WFMP or provide public comment during the interdisciplinary review process.

This provision is substantially the same as 14 CCR § 1090.2(f), the comparable provision in the NTMP rules. This provision was also informed by PRC § 4597.3.

#### **Adopt § 1094.3(g)**

The proposed adoption specifies that the plan submitter is responsible for posting the Notice of Preparation for purposes of public inspection at a conspicuous location that is

easily visible to the public and near the Plan site. This provision also requires that the noticing identified in 14 CCR § 1032.10, requesting information on domestic water supplies, and any noticing required within counties with special rules be completed prior to WFMP submission.

This provision is necessary to establish the process that maximizes the likelihood of members of the interested public, that drive by the Plan site, seeing the Notice of Preparation and identifies that the plan submitter is responsible for the posting, which is necessary to ensure the interested public are notified in a timely manner of and receive basic information about the nature of the proposed operations under the WFMP. This basic information allows the interested public to evaluate whether they would like to review the entirety of the WFMP or provide public comment during the interdisciplinary review process. The latter part of the provision is necessary to provide clarity that the noticing required in 14 CCR § 1032.10, requesting information on domestic water supplies, and any noticing required within counties with special rules apply to a WFMP and must be completed prior to WFMP submission.

This provision is substantially the same as 14 CCR § 1090.2(g), the comparable provision in the NTMP rules.

#### **Adopt § 1094.4(a)-(e) Notice of Preparation-Distribution by the Director**

The proposed adoptions specify that the Director shall distribute the Notice of Preparation, within two working days of receipt, to (a) the Office of the County Clerk of the county(s) in which timber operations are proposed (b) the local Unit headquarters (c) other locations that the Director deems desirable and feasible to provide adequate public notice (d) any additional distribution required by the Board rules and regulations for individual counties and (e) the Department's Internet Website.

These provisions are necessary to provide instruction to the Director on distribution of the Notice of Preparation and inform the regulated public when and where the Notice of Preparation will be distributed for posting. The identified minimum distribution locations ensure that the Notice of Preparation is available in predictable locations accessible to the general public.

These provisions are substantially the same as 14 CCR § 1090.3(a)-(d), the comparable provisions in the NTMP rules. The basis for the requirement in § 1094.3(e) can be found in PRC §4597.3.

#### **Adopt § 1094.5(a)-(b) Request for Notification of WFMP or Working Forest Harvest Notice Submission**

The proposed adoptions specify that (a) each applicable CAL FIRE Review Team Office shall maintain a list of WFMPs or Working Forest Harvest Notice(s) submitted each day, otherwise known as notices of submission, and (b) when any person requests notices of submission, the Director shall provide the person, free of charge, with a copy of them on the date or dates requested and if no specific date is requested, a copy of the lists for the preceding week shall be provided.

These provisions are necessary to provide a transparent process for the interested public to find out when a WFMP or a Working Forest Harvest Notice has been filed with the Department and to provide the Director instruction regarding making this information available to the public.

These provisions are substantially the same as 14 CCR § 1090.4(a)-(b), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP. These provisions were also informed by PRC § 4597.4.

#### **Adopt § 1094.6 Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall serve three functions 1) to provide information needed by the Director to determine whether the proposed WFMP conforms to the Board rules and regulations 2) to provide information and direction for timber management so it complies with the Board rules and regulations and the management objectives of the landowner(s) and 3) to disclose the potential effects of timber management to the public and provides a leading statement that in order for the function of the WFMP to be met the plan must contain the information as required in § 1094.6(a)-(kk), which is necessary to inform the regulated public of the contents required to be included in a WFMP. This preamble is also necessary to inform the regulated public of the purpose of the contents of the WFMP. Disclosing the purpose allows the interested public to know what information to expect from the contents of a WFMP.

This provision is substantially the same as the preamble located in 14 CCR § 1090.5(a)-(b), the comparable provision in the NTMP rules, except that it has been made specific to the WFMP.

#### **Adopt § 1094.6(a)-(d) Contents of WFMP**

The proposed adoptions specify that the WFMP shall contain the name, address and telephone number of (a) the timberland owner(s) (b) the Designated Agent (if known at the time of WFMP submission) (c) the timber owner(s) (if different from the timberland owner(s)) and (d) the RPF who prepared the plan and their registration number.

These provisions are necessary so the Department has the names and contact information for each of the parties responsible in the WFMP to facilitate communication and enforcement.

These provisions are substantially the same as 14 CCR § 1090.5(a)-(c), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP. Provision § 1094.6(a) was also informed by PRC § 4597.2(a).

#### **Adopt § 1094.6(e) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a United States Geological Survey quadrangle map or equivalent, of a scale not less than 2" per mile. It also specifies that additional maps may be required to show specific details,

and may be planimetric and that color coding on maps may be used if they are able to be reproduced in black and white and clearly show all details. Additionally, it specifies that a legend shall be included indicating the meaning of the symbols used and guidance to see the district rules for the appropriate minimum mapping acreages. Finally, this provision provides a leading statement that this map shall include the information as required in § 1094.6(e)(1)–(18), which is necessary to inform the regulated public of the type of map, scale of the map and the information to be included on the map. This map is necessary to facilitate review and operations to geospatially display the project area, type of operations, infrastructure and resources that may be impacted by timber operations under the WFMP. This map is essential for the RPF, project proponent, interdisciplinary review team, public and timber operator to conduct their duties efficiently and satisfactorily. This map also facilitates evaluation of the surrounding environmental conditions that may be impacted by these operations.

This preamble is substantially the same as the preamble in 14 CCR § 1090.5(w), the comparable provision in the NTMP rules, except that “shall be clearly provided” was removed because this professional standard subtends the entire rules and does not need to be specified for one provision when it applies to all provisions. It is essential that information provided be clear to enable review and operations. The Board also replaced “Color coding shall not be used.” with “Color coding on maps may be used if they are able to be reproduced in black and white and clearly show all details.”, which was necessary to provide flexibility to the project proponent, but at the same time not incur additional cost to the Department to reproduce color maps.

The Board also recognizes that the Natural Resources Agency is working with the Department on electronic THP submission that may include the allowance of color coding.

#### **Adopt § 1094.6(e)(1) Contents of WFMP**

The proposed adoption requires that WFMP Management Units be mapped. Additionally, boundaries of Management Units shall not exceed a single ownership which may include, but is not limited to, entities comprised as a single ownership of divided interest, natural-persons with undivided interests, or a legally established artificial-person. This limitation was included at the request of the Department to address issues of the Department being the mediator of disagreements between timber owners during implementation of NTMPs when a management unit spans multiple ownerships. The Board deemed this limitation necessary in the WFMP rules to remediate the problem conveyed by the Department about the NTMP rules.

This provision is informed by 14 CCR § 1090.5(w)(1), the comparable provision in the NTMP rules, except that it has been made specific to the WFMP. This provision was also informed by PRC § 4597.2(i)(1)(C).

#### **Adopt § 1094.6(e)(2) Contents of WFMP**

The proposed adoption requires the boundaries of yarding (logging) systems, if more than one type is proposed for use, be mapped, which is necessary to facilitate review

and operations.

This provision is substantially the same as 14 CCR § 1090.5(w)(3), the comparable provision in the NTMP rules. This provision was also informed by PRC § 4597.2(i)(1)(B).

#### **Adopt § 1094.6(e)(3) Contents of WFMP**

The proposed adoption requires the boundaries of areas sample marked for each prescribed silvicultural method, be mapped, which is necessary to facilitate Department review, especially during the preharvest inspection. This provision was included because the Department requires that a portion of the WFMP be sample marked, by silvicultural prescription, to facilitate adequate review of proposed harvesting. Therefore, the Board deemed this provision necessary in the WFMP rules based upon a demonstrated need by the Department for the purposes of review of proposed WFMPs. This requirement is not specified in the NTMP rules or required by statute.

#### **Adopt § 1094.6(e)(4) Contents of WFMP**

The proposed adoption is a preamble that specifies that the location of all roads to be used for, or potentially impacted by, timber operations shall be mapped and provides a leading statement that the information as required in § 1094.6(e)(4)(A)–(E) shall be included, which is necessary to inform the regulated public of the information required to be mapped.

This provision is substantially the same as the preamble located in 14 CCR § 1090.5(w)(4), the comparable provision in the NTMP rules.

#### **Adopt § 1094.6(e)(4)(A)-(E) Contents of WFMP**

The proposed adoptions specify that (A) The classification of all roads as permanent, seasonal, temporary, or deactivated (B) Roads and landings located in Watercourses, Lakes, WLPZs, Wet Meadows, or Other Wet Areas, other than at road watercourse crossings (C) Roads that provide access to rock pits and water drafting sites, and the location of water drafting sites (D) Public roads within one-quarter (1/4) mile of the harvest area and (E) The location of significant existing and potential erosion sites on all roads and landings pursuant to 14 CCR § 923.1(e) shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

These provisions are substantially the same as 14 CCR § 1090.5(w)(4)(A)-(E), the comparable provisions in the NTMP rules, except that “marshes” was removed and “or proposed for abandonment” was replaced with “or deactivated”. Marshes was removed for clarity because it is an undefined term and the Merriam Webster definition is similar to the defined term “Wet Meadows and other wet areas”. The latter modification was requested by representatives of the California Geological Survey (CGS) and North Coast Regional Water Quality Control Board (WQ) and the Board deemed necessary because roads “to be abandoned” are already required to be mapped in § 1094.6(e)(11) and roads that have already been abandoned should not have to be mapped because they are no longer part of the permanent road network. Finally for clarity the Board

replaced “or” with “and”, in § 1094.6(e)(4)(E), to be consistent with existing regulation in 14 CCR § 923.1(e). § 1094.6(e)(4)(A) was also informed by §1090.5(gg).

**Adopt § 1094.6(e)(5) Contents of WFMP**

The proposed adoption specifies that the location of proposed and existing landings outside the WLPZ that are greater than 1/4 acre in size or whose construction involves substantial excavation shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

The Board deemed that it was not necessary to make the term “substantial excavation” more specific based on comment received from CGS and the Department at the 01/26/16 Management Committee meeting. This term is in the existing THP rules, NTMP rules and PTHP rules and no issues on the application of it have been reported to date.

This provision was informed by 14 CCR § 1090.5(w)(5), the comparable provision in the NTMP rules, except that “Probable location of proposed and existing landings in the watercourse and lake protection zone” was not incorporated to eliminate redundancy because this is required by provision § 1094.6(e)(4)(B).

**Adopt § 1094.6(e)(6) Contents of WFMP**

The proposed adoption specifies that the location of area(s) of low, moderate, high or extreme erosion hazard ratings shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision was informed by 14 CCR § 1090.5(w)(8), the comparable provision in the NTMP rules, except that the requirement that low and moderate erosion hazard ratings be mapped was added. The Board deemed that it was necessary to require that this information be mapped for ease of operations and enforcement given that different prescriptive measures are required for different erosion hazard ratings, such as waterbar spacing. This provision was also informed by 14 CCR § 1034(x)(8), which requires that the location of erosion hazard rating areas, if more than one rating exists be mapped.

**Adopt § 1094.6(e)(7) Contents of WFMP**

The proposed adoption specifies that the location of all Lakes and Watercourses with Class I, II, III, or IV waters shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision was informed by 14 CCR § 1090.5(w)(9), the comparable provision in the NTMP rules, except the requirement that lakes be mapped was added. The Board deemed that it was necessary to require that this information be mapped for ease of operations and enforcement given the protection measures that are associated with them. This provision was also informed by 14 CCR § 1034(x)(9), which is substantially the same.

#### **Adopt § 1094.6(e)(8) Contents of WFMP**

The proposed adoption specifies that the location of known unstable areas or slides shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision is substantially the same as 14 CCR § 1090.5(w)(10), the comparable provision in the NTMP rules.

#### **Adopt § 1094.6(e)(9) Contents of WFMP**

The proposed adoption specifies that the location of understocked areas and other areas not normally bearing timber to at least a 20-acre minimum, or as specified in the district rules, shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision is substantially the same as 14 CCR § 1090.5(w)(11), the comparable provision in the NTMP rules.

#### **Adopt § 1094.6(e)(10) Contents of WFMP**

The proposed adoption specifies that the location of boundaries of timber-site classes needed for determination of stocking standards to be applied shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision was informed by 14 CCR § 1090.5(w)(12), the comparable provision in the NTMP rules, except that “down to at least a 10-acre minimum or as specified in the district rules” was not added for congruency with PRC § 4597.2, which requires the boundaries of all site I classification timberlands to be stocked in accordance with subdivision (b) of PRC§ 4561 and any other site classifications (if the board establishes specific minimum stocking standards for other site classifications) be mapped. This provision was also informed by § 1094.6(v), which requires a description of stocking standards of the selected silvicultural method, or that level of stocking above the minimum that will achieve long term sustained yield (LTSY) be provided.

#### **Adopt § 1094.6(e)(11) Contents of WFMP**

The proposed adoption specifies that the locations of logging roads and landings to be abandoned or deactivated shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision was informed by 14 CCR § 1090.5(gg), the comparable provision in the NTMP rules, which requires on a map complying with 14 CCR § 1090.5(w), the locations and classifications of logging roads, logging road watercourse crossings, and landings to be abandoned or deactivated shall be shown. In the WFMP rules, these requirements have been divided in § 1094.6(e)(4)(A), (11) and (15) for the purpose of congruency with the Road Rules, approved in 2014, and to avoid redundancy.

#### **Adopt § 1094.6(e)(12) Contents of WFMP**

The proposed adoption specifies that soils, where a soils map is available, shall be

mapped, which is, at a minimum, necessary to facilitate review.

This provision is substantially the same as 14 CCR § 1090.5(w)(14), the comparable provision in the NTMP rules, and is also informed by PRC § 4597.2.

**Adopt § 1094.6(e)(13) Contents of WFMP**

The proposed adoption specifies that Late Successional Forest Stands or Strata shall be mapped, which is, at a minimum, necessary to facilitate review.

This provision is substantially the same as PRC § 4597.2(g)(2).

**Adopt § 1094.6(e)(14) Contents of WFMP**

The proposed adoption specifies that the location of unique areas including Coastal Commission Special Treatment Areas or other special treatment areas and known locations of state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d) shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision is substantially the same as 14 CCR § 1090.5(w)(13), the comparable provision in the NTMP rules, except the latter portion of the provision that requires mapping of known locations of specified species was added. This portion of the provision was developed in conjunction with the California Department of Fish and Wildlife to address the conservation of wildlife resources during implementation of WFMPs.

This provision is also informed by PRC § 4597.2(e).

**Adopt § 1094.6(e)(15) Contents of WFMP**

The proposed adoption specifies that the location of all new permanent constructed and reconstructed and temporary logging road watercourse crossings, including those crossings to be abandoned or deactivated shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

This provision was informed 14 CCR § 1090.5(w)(7), the comparable provision in the NTMP rules, which states that the location of all existing and proposed permanent watercourse crossing drainage structures and temporary crossings on Class I and II watercourses on roads shall be mapped; if a permanent culvert is involved, its minimum diameter shall be provided. However, this provision was changed for congruency with the Road Rules, adopted in 2014, and is now substantially the same as 14 CCR §§ 1034(x)(6) and 923.9(e), except that the requirement in 14 CCR § 923.9(e), that the Plan specify the minimum diameter of the culvert (if the culvert is intended for permanent use) and the method(s) used to determine the culvert diameter is in a separate provision in 14 CCR § 1090.5(hh).

**Adopt § 1094.6(e)(16) Contents of WFMP**



The proposed adoption is a preamble that provides a leading statement that, for all constructed and reconstructed logging roads and landings, the information required in § 1094.6(e)(16)(A)-(F) shall be mapped, which is necessary to inform the regulated public of information required to be mapped.

Although, the legislative intent of the WFMP was to build upon the model provided by the NTMP pursuant to PRC § 4597(a)(3), and § 1094.6(e)(16)(A) and (C)-(F) are not required to be mapped pursuant to the NTMP rules, for the purposes of congruency with the Road Rules, adopted in 2014, and in response to requests by representatives of CGS and WQ, the Board ultimately decided to include these provisions. This is necessary to minimize confusion.

This provision is substantially the same as the preamble located in 14 CCR § 1034(x)(5).

#### **Adopt § 1094.6(e)(16)(A)-(F) Contents of WFMP**

The proposed adoptions specify that the (A) location of logging road grades greater than 15 percent for over 200 continuous feet or logging road grades exceeding 20 percent (B) locations of logging road failures on existing logging roads to be reconstructed (C) location of logging roads across and landings on unstable areas or connected headwall swales (D) location of excess material disposal sites on slopes greater than 40 percent or on active unstable areas (E) location of logging roads and landings across slopes greater than 65 percent for 100 lineal feet or more and (F) location of logging roads and landings across slopes greater than 50 percent for 100 lineal feet or more within 100 feet of the boundary of a WLPZ that drains toward the zoned watercourse or lake shall be mapped. These provisions are necessary to facilitate review, operations, communication and enforcement.

Although, the legislative intent of the WFMP was to build upon the model provided by the NTMP pursuant to PRC § 4597(a)(3), and § 1094.6(e)(16)(A) and (C)-(F) are not required to be mapped pursuant to the NTMP rules, for the purposes of congruency with the Road Rules, adopted in 2014, and in response to requests by representatives of CGS and WQ, the Board ultimately decided to include these provisions. This is necessary to minimize confusion.

§ 1094.6(e)(16)(A) is substantially the same as 14 CCR § 1034(x)(5)(A).

§ 1094.6(e)(16)(B) is substantially the same as 14 CCR §§ 1090.5(w)(6) and 1034(x)(5)(B), except that the Board replaced “road” with “logging road”, for clarity because “logging road” is a defined term pursuant to 14 CCR § 895.1.

§ 1094.6(e)(16)(C) is substantially the same as 14 CCR § 1034(x)(5)(C).

§ 1094.6(e)(16)(D) is substantially the same as 14 CCR § 1034(x)(5)(E).

§ 1094.6(e)(16)(E) is substantially the same as 14 CCR § 1034(x)(5)(F).

§ 1094.6(e)(16)(F) is substantially the same as 14 CCR § 1034(x)(5)(G).

Note: 14 CCR § 1034(x)(5)(D) is already required in § 1094.6(e)(5).

#### **Adopt § 1094.6(e)(17) Contents of WFMP**

The proposed adoption specifies that the location of main ridge tops on the logging area suitable for fire suppression efforts that will require the felling of snags shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

Although, the legislative intent of the WFMP was to build upon the model provided by the NTMP pursuant to PRC § 4597(a)(3), and § 1094.6(e)(17) is not required to be mapped pursuant to the NTMP rules, in response to requests by representatives of CGS and WQ, the Board ultimately decided to include this provision. This provision is substantially the same as 14 CCR § 1034(x)(13).

#### **Adopt § 1094.6(e)(18) Contents of WFMP**

The proposed adoption specifies that the location of any in lieu use of heavy equipment and location of tractor roads in watercourses, lakes, WLPZs, marshes, wet meadows, and other wet areas, except where the WFMP has a standard operating practice(s) pursuant to 1094.6 (jj) shall be mapped, which is necessary to facilitate review, operations, communication and enforcement.

Although, the legislative intent of the WFMP was to build upon the model provided by the NTMP pursuant to PRC § 4597(a)(3), and § 1094.6(e)(18) is not required to be mapped pursuant to the NTMP rules, for the purposes of congruency with the Road Rules, adopted in 2014, and in response to requests by representatives of CGS and WQ, the Board ultimately decided to include this provision. This provision is substantially the same as 14 CCR § 1034(x)(16), except “except where the WFMP has a standard operating practice(s) pursuant to §1094.6 (jj)” was added so as not to undermine the purpose of § 1094.6(jj).

#### **Adopt § 1094.6(f) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a description of the Plan area within which timber operations are to be conducted, except as otherwise specified and provides a leading statement that the description shall include the information as required in § 1094.6(f)(1)-(5), which is necessary to inform the regulated public of the contents required to be included in the description of the Plan area within which timber operations are to be conducted.

This provision is substantially the same as the preamble in 14 CCR § 1090.5(d), the comparable provision in the NTMP rules. This provision is also informed by PRC § 4597.2(b).

#### **Adopt § 1094.6(f)(1)-(5) Contents of WFMP**

The proposed adoptions specify that the description of the Plan area within which timber operations are to be conducted shall contain (1) Township, range, and section number(s) and approximate Plan acreage, (2) County name(s), (3) CALWATER v2.2 planning watershed number(s), (4) The forest district and subdistrict (if any) in which the WFMP is located and (5) A description of present and proposed Plan area uses other than timber production.

These provisions are necessary to provide a clear description of the area proposed for timber operations in order to geospatially reference the project. The public land survey description allows for the area to be located on other maps that contain locations of sensitive resources. The County name, in part, allows for the plan to be publicly noticed in the correct location. The planning watershed is used, in part, to identify other projects in the same planning watershed that may cumulatively add to the impacts of the proposed project. The forest district in which timber operations will occur determines which regulations apply. Identifying other land uses allows for the reviewing agencies to determine other values that may be impacted by the proposed timber operations. These provisions are also necessary to facilitate review, operations, communication and enforcement.

These provisions are substantially the same as 14 CCR § 1090.5(d)(2)-(5) and (e), the comparable provision in the NTMP rules. These provisions are also informed by PRC § 4597.2(b). The Board deemed that 14 CCR § 1090.5(d)(1), which required that the U.S. Geological Survey (USGS) Quadrangle name(s) and date(s) be provided in the NTMP was not necessary to be provided in the WFMP because township, range, and section number(s) was deemed adequate to geospatially locate the Plan.

#### **Adopt § 1094.6(g) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a description, prepared by the RPF, of the inventory design and standards and provides a leading statement that the description shall include the information as required in § 1094.6(g)(1)-(3), which is necessary to inform the regulated public of the contents required to be included in the description of the inventory design and standards.

This provision was informed by the preamble in PRC § 4597.2(c).

#### **Adopt § 1094.6(g)(1)-(3) Contents of WFMP**

The proposed adoptions specify that the description of the inventory design and standards shall contain (1) the baseline conditions found on the WFMP and the future conditions and planning horizon associated with the estimate of LTSY, (2) a description of the design of inventory plots or strips, cruise lines and reference points between plots or strips, that are sufficient to facilitate initial review of the WFMP and (3) the type of projections or models used for projecting growth and yield appropriate for stand conditions and estimated period of time to achieve LTSY.

The Board deemed that it was not necessary to make the term "baseline conditions" more specific. However, the Board added that the requirement that existing timber volumes be provided in the property description pursuant to § 1094.6(i) and that existing timber volumes and tree sizes to be available for harvest be provided in the description for each management unit pursuant to § 1094.6(n) to insure that baseline conditions would be captured. Regarding the term "baseline conditions", terms not specifically defined in the rules retain their plain meaning. Merriam-Webster defines "baseline conditions" as a usually initial set of critical observations or data used for comparison or a control. Therefore in the context of § 1094.6(g)(1), "baseline conditions" means the

initial set of critical observations or data to be used for comparison with projected future conditions.

These provisions are necessary to provide additional clarity and enforceability above and beyond the NTMP rules, which do not substantially contain these provisions, and to make specific PRC § 4597.2(c) which requires a description of inventory design. These proposed provisions are also necessary to allow the Department to effectively evaluate the proposed project with regard to growth and yield and allow flexibility for RPFs and landowners to develop a LTSY that is specific to the proposed project.

Additionally, these provisions are necessary to allow the project proponent, public and interdisciplinary review team to evaluate the accuracy of the inventory and the projected growth and yield. The current inventory of forest stands is determined through measuring a sample of the trees occupying the stand. There are numerous acceptable sampling methods to arrive at an inventory estimate. The public and review team need to know the estimated inventory and the method by which the estimate was derived to evaluate the appropriateness of the proposed management strategy. The rigorous inventory standards goal required by the statute PRC § 4597(a)(5) and specific rules § 1094.6(g), § 1094.6(h), § 1094.6(i), and § 1094.6(n) require rigorous sampling methods and inventory estimates to allow the project proponent, public and reviewing agencies to understand the assumptions and limitations of the projected growth and yield data being reported.

These provisions are informed by 14 CCR § 1090.5(j) and PRC § 4597.2(c)(3) and (f).

#### **Adopt § 1094.6(h) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a description of the inventory design and timber stand stratification criteria that demonstrates that the inventory supporting the growth and yield calculations used to determine LTSY by volume for the WFMPs meets minimum standards and provides a leading statement that these minimum standards are specified in § 1094.6(h)(1)-(3), which is necessary for clarity.

This provision is substantially the same as the preamble in PRC § 4597.2(c)(3), except that the Board made specific the units of LTSY through the addition of “by volume”, which was necessary for clarity, consistency and to facilitate review.

#### **Adopt § 1094.6(h)(1)-(3) Contents of WFMP**

The proposed adoptions specify minimum standards the inventory supporting the growth and yield calculations used to determine LTSY by volume must meet (1) For Major Stand Type(s) or Strata, the inventory estimate shall be within fifteen (15) percent of the mean at one (1) standard error. (2) For Stand(s) or Strata that make up greater than ten (10) percent and less than twenty five (25) percent of the WFMP area, the estimate shall be no greater than twenty five (25) percent of the mean at one (1) standard error. and (3) Inventory estimates and growth and yield shall be projected for the purposes of determining LTSY and volumes available for harvest by Stand or Strata

and aggregated for the area covered by the WFMP to develop the LTSY estimate. LTSY estimates shall reasonably reflect constraints applicable to the Working Forest Timberlands on forest management activities. Reasonable constraints shall include biologic and economic factors, while accounting for limits on productivity due to constraints imposed from consideration of other forest values, including but not limited to, recreation, watershed, wildlife, range and forage, fisheries, regional economic activity, employment and aesthetic enjoyment.

These provisions are necessary to provide additional clarity and enforceability above and beyond the NTMP rules, which do not substantially contain these provisions, and to make specific PRC § 4597.2(c). These proposed provisions are also necessary to allow the Department to effectively evaluate the proposed project with regard to growth and yield and allow flexibility for RPFs and landowners to develop a LTSY that is specific to the proposed project.

Additionally, these provisions are necessary to allow the project proponent, public and interdisciplinary review team to evaluate the accuracy of the inventory and the projected growth and yield. The current inventory of forest stands is determined through measuring a sample of the trees occupying the stand. There are numerous acceptable sampling methods to arrive at an inventory estimate. The public and review team need to know the estimated inventory and the method by which the estimate was derived to evaluate the appropriateness of the proposed management strategy. The rigorous inventory standards goal required by the statute PRC § 4597(a)(5) and specific rules § 1094.6(g), § 1094.6(h), § 1094.6(i), and § 1094.6(n) require rigorous sampling methods and inventory estimates to allow the project proponent, public and reviewing agencies to understand the assumptions and limitations of the projected growth and yield data being reported. Stratification of timber stands, for sampling purposes, increases the accuracy of these projections by dividing the area covered by the WFMP into homogenized stand types. Providing an expected accuracy determines the percent of the area that must be sampled, and the level of stratification needed to provide a minimum level of confidence in the accuracy of the current inventory and projected growth and yield information.

These provisions are substantially the same as PRC § 4597.2(c)(3), except the Board, in provision (1), replaced “stand type” with “Major Stand Type”, the term defined, pursuant to § 1094.2(d), that the Board deemed relevant and necessary for clarity. In provision (3), the Board made specific reasonable constraints by providing example, which was informed by 913.11[933.11, 953.11](a)(1), and which was necessary for clarity. The Board determined that this specificity was necessary to assure that a LTSY estimate reflected a balance between growth and yield and the social, economic and physical constraints of forest management.

#### **Adopt § 1094.6(i) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a description of the property and planned activities and provides a leading statement that the description shall include the information as required in § 1094.6(i)(1)-(9), which is necessary to inform the regulated public of the contents required to be included in the

description of the property and planned activities.

This provision is substantially the same as the beginning of PRC § 4597.2(f).

**Adopt § 1094.6(i)(1)-(9) Contents of WFMP**

The proposed adoptions specify that the description of the property and planned activities shall contain (1) Acres of Stands, Strata, and Major Stand Types. (2) Projected growth. (3) Existing stand types. (4) Major Stand Types or Strata. (5) Current projected growth by Strata. (6) Silvicultural method(s) to be applied to Strata to achieve LTSY. (7) Existing and projected timber volumes and tree sizes to be available for harvest. (8) Projected frequencies of harvest. and (9) Silvicultural method(s) to be applied during the initial harvest(s), projected future harvest(s) and method(s) used in the projected growth and yield to achieve LTSY. These provisions are necessary to facilitate review, operations, communication and enforcement.

These provisions are necessary to provide additional clarity and enforceability above and beyond the NTMP rules, which do not substantially contain these provisions, and to make specific PRC § 4597.2(f), which these provisions are substantially the same as, except the Board deemed it necessary to require existing timber volumes be provided to capture baseline conditions. Additionally, the Board deemed it necessary to add provision (9) to facilitate Department review and enforcement. Further, these provisions are necessary to allow the Department to effectively evaluate a LTSY estimate by requiring the RPF to provide specific forest characteristics and management information necessary to develop an accurate accounting of growth and yield.

**Adopt § 1094.6(j) Contents of WFMP**

The proposed adoption specifies that a WFMP shall contain an erosion control implementation plan with information as required by 14 CCR § 923.1(e) and that this requirement shall not apply to the extent that the RPF provides documentation to the Department that the WFMP is in compliance with similar requirements of other applicable provisions of law.

This provision is necessary to disclose to the public and interdisciplinary review team how erosion will be prevented or mitigated throughout the WFMP area to assess whether implementation of the WFMP will have a significant impact on water quality and/or aquatic habitats.

This provision was informed by PRC § 4597.2(d), which states that a WFMP shall contain:

“A description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations. This shall include disclosure of active erosion sites from roads, skid trails, crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state in an amount deleterious to the beneficial uses of water, an erosion control implementation plan, and a schedule to implement erosion controls that prioritizes major sources of erosion. This subdivision shall not apply to

the extent that the registered professional forester provides documentation to the department that the working forest management plan is in compliance with similar requirements of other applicable provisions of law.”

One difference between PRC § 4597.2(d) and 14 CCR § 923.1(e), the information in which the Board decided to require be provided, is that 14 CCR § 923.1(e) requires the inclusion of “potential erosion sites”. For the record, the Board’s Management Committee was in contact with a representative of AB 904’s author throughout the regulatory development of the WFMP. According to these conversations “potential erosion sites” were specifically excluded from PRC § 4597.2(d). However, the Board ultimately decided to make § 1094.6(j) congruent with the Road Rules, adopted in 2014, which the Board deemed necessary to minimize confusion and in response to requests by representatives of CGS, WQ, and the public.

Another difference is disclosure of erosion sites from skid trails and skid trail crossings or any other structures and corresponding schedule to implement erosion controls that prioritizes major sources of erosion, which is specified in PRC § 4597.2(d), but not in 14 CCR § 923.1(e). In spite of the effort to achieve congruency with the Road Rules, adopted in 2014, the Board retained this requirement, included in PRC § 4597.2(d), but moved it from WFMP contents, the location specified in PRC § 4597.2(d), to the Working Forest Harvest Notice (WFHN) content. The Board deemed this necessary for practicality based on the knowledge this level of identification would not be reasonable during development of the WFMP given the potential size of the WFMP area, but that it would be reasonable during preparation of the WFHN, which would likely encompass a much smaller area.

Additionally, the Board retained, from PRC § 4597.2(d), the exception that this requirement shall not apply to the extent that the RPF provides documentation to the Department that the WFMP is in compliance with similar requirements of other applicable provisions of law. This provision is included to prevent requiring a landowner who already has an approved plan in place for treating controllable sediment discharges from having to perform redundant work to comply with this subdivision. As an example, NTMP holders under the jurisdiction of the North Coast Regional Water Quality Control Board (NCRWQCB) may have an Erosion Control Plan (ECP) identifying all sites across the NTMP and an implementation schedule for treating these sites. If a NTMP holder were to add additional acreage and apply for a WFMP, this ECP could meet the requirements of §1094.6(j). See the NCRWQCB website for more information about the ECP

([http://www.waterboards.ca.gov/northcoast/water\\_issues/programs/timber\\_operations/n\\_on\\_industrial\\_tmpls/](http://www.waterboards.ca.gov/northcoast/water_issues/programs/timber_operations/n_on_industrial_tmpls/)).

### **Adopt § 1094.6(k) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain special provisions to protect unique areas, if any, within the WFMP area and is necessary to facilitate review, operations, communication and enforcement.

Unique areas means special treatment areas defined in 14 CCR 895.1, 912, 932, and

952, pursuant to 14 CCR § 895.1.

This provision is substantially the same as PRC § 4597.2(e). The placement of this provision in the Plan content goes above and beyond the NTMP rules, in which this provision is only in Notice content, specifically 14 CCR § 1090.7(j). For the WFMP, the Board decided to require this provision in both the Plan and Notice content to facilitate review.

#### **Adopt § 1094.6(l) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a description of Late Succession Forest Stands and provides a leading statement that in addition to their biological legacies and hardwoods, in the Plan area, their acreage, composition, structure, and how the total acreage of this type of habitat will be maintained across the Plan area under a constraint of no net loss, the description shall include the information as required in § 1094.6(l)(1)-(2). This is necessary for clarity to inform the regulated public of the contents required to be included in the description of Late Succession Forest Stands. The provision also states that nothing in this provision shall be interpreted to preclude active management on any given acre of an approved Plan if the management is conducted in a manner that maintains or enhances the overall acreage of Late Succession Forest Stands that existed in the Plan area upon initial Plan approval and informs the regulated public that an exception to the no net loss constraint may be granted in the event of a catastrophic loss due to emergency factors such as wildfire, insect, and disease activity.

This provision is substantially the same as the preamble in PRC § 4597.2(g)(1), except that the Board made more specific the information to be included in the description of Late Succession Forest Stands, by adding “their biological legacies and hardwoods, in the Plan area, their acreage, composition, structure” which the Board deemed necessary to facilitate review. This provision was also informed by 14 CCR § 919.16.

#### **Adopt § 1094.6(l)(1)-(2) Contents of WFMP**

The proposed adoptions specify that the description of Late Succession Forest Stands shall contain (1) Retention measures for existing biological legacies such as snags, trees with cavities or basal hollows, and down logs, and address how legacies shall be managed over time as appropriate with the forest type, climate, and timberland owner’s forest fire fuels and wildlife management objectives. and (2) Hardwood tree species and how they will be managed over time.

These provisions are necessary to facilitate review, operations, communication and enforcement. Specifically, to facilitate evaluation by the project proponent, public and interdisciplinary review team regarding how the habitat provided by Late Successional Forest Stands and hardwoods will be managed over time by implementation of the WFMP. Management of these features is allowed under the WFMP provided the total acreage is not reduced so it is necessary to provide a description of how these features will be retained or new features will be developed during management activities.

These provisions are substantially the same as PRC § 4597.2(g)(1)(A)-(B).



### **Adopt § 1094.6(m) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall provide disclosures and delivers a leading statement that disclosures shall include the information as required in § 1094.6(m)(1)-(3), which is necessary to inform the regulated public of the disclosures required to be included in the WFMP and for clarity.

This provision is substantially the same as the beginning of PRC § 4597.2(h).

### **Adopt § 1094.6(m)(1)-(3) Contents of WFMP**

The proposed adoptions specify that the WFMP shall include disclosure of (1) State or federally listed threatened, candidate, endangered, or rare plant or animal species known locations within the biological assessment area and the WFMP, their status and habitats, take avoidance methodologies, enforceable protection measures for species within or adjacent to the WFMP and habitats within the WFMP area, and how forest management will maintain species and habitats over time; (2) Any known locations of plant or animal species pursuant to 14 CCR § 15380(d) within the biological assessment area and the WFMP and (3) Information on the presence and known locations of individual Sensitive Species pursuant to 14 CCR § 895.1 adjacent to or within the WFMP or their key habitats within the WFMP.

These provisions are necessary to address the conservation of sensitive plants and animals resources during implementation of WFMPs and to facilitate review, operations, communication and enforcement. Specifically, the disclosure of the presence of sensitive plants and animals within the assessment area that may be impacted by implementation of the WFMP facilitates evaluation by the project proponent, public and interdisciplinary review team of the mitigation measures proposed to avoid impacts to these species.

These provisions make specific PRC § 4597.2(h) and were informed by 14 CCR § 1090.5 (n), but these provisions go above and beyond the NTMP rules, which do not wholly contain these provisions, which was deemed necessary to provide additional clarity and to further facilitate review and enforcement.

Provision (1) is substantially the same as PRC § 4597.2(h), except the Board made specific the locations within which species disclosure must occur by adding “the WFMP”, which was deemed necessary for clarity. The Board also made specific the area for species and habitat for which enforceable protection measures must be disclosed by adding measures for species “within or adjacent to the WFMP” and habitats “within the WFMP area”, which was deemed necessary for clarity.

Provision (2) was developed in conjunction with the California Department of Fish and Wildlife (CDFW).

In Provision (3), the Board deemed that it was not necessary to make the term “key habitats” more specific based on comment received from the CDFW at the 03/24/16 WFMP Workshop. This term is in the existing NTMP rules and no issues on the

application of it have been reported to date. “Key habitats” is specific to the specific Sensitive Species and site and may include, snags, soils and streams and may be assessed on the basis of what Sensitive Species might be expected to occur within the Plan area.

#### **Adopt § 1094.6(n) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a description of each Management Unit and provides a leading statement that the description shall include the information as required in § 1094.6(n)(1)-(3). This is necessary for clarity to inform the regulated public of the contents required to be included in the description of each Management Unit.

This provision is substantially the same as the preamble in PRC § 4597.2(i)(1).

#### **Adopt § 1094.6(n)(1) Contents of WFMP**

The proposed adoption specifies the description of each Management Unit shall include the acres by Stand or Strata and estimated growth and yield for each planned harvest entry covering the period of time the LTSY plan establishes as necessary to meet growth and yield objectives. It further specifies that the growth and yield estimates may be based on weighted average of yield for the Major Stand Type(s) or Strata within the area included in the Management Unit. Finally, the proposed adoption is a preamble that provides a leading statement that the information as required in § 1094.6(n)(1)(A)–(C) be included in the growth and yield estimates. This is necessary for clarity to inform the regulated public of the contents required to be included in the in the growth and yield estimates.

This provision is necessary to allow the project proponent, public and the Department to effectively evaluate the growth and yield

This provision is substantially the same as PRC § 4597.2(i)(1)(A), except the Board, replaced “stand type” with “Major Stand Type”, the term defined, pursuant to § 1094.2(d), that the Board deemed relevant and necessary for clarity.

#### **Adopt § 1094.6(n)(1)(A)-(C) Contents of WFMP**

The proposed adoptions specify that the WFMP shall include a description of each Management Unit that shall include growth and yield estimates that shall include (A) Existing and Projected timber volumes and tree sizes to be available for harvest. (B) Existing stocking levels, including but not limited to, average conifer and hardwood basal area density and average conifer and hardwood trees per acre. and (C) Potential pest and protection problems.

These provisions are necessary to allow the project proponent, public and the Department to effectively evaluate the growth and yield

§ 1094.6(n)(1)(A) is substantially the same as 14 CCR § 1090.5(h), except the Board added the requirement that the existing timber volumes and tree sizes to be available

for harvest be provided to insure that baseline conditions are captured.

§ 1094.6(n)(1)(B) was informed by 14 CCR § 1090.5(g), which includes the requirement that present stocking levels for each Management Unit be provided. The additional requirement of reporting of stocking in terms of basal area per acre and trees per acre was included based upon written request by CAL FIRE.

§ 1094.6(n)(1)(C) was also informed by 14 CCR § 1090.5(g), which includes the requirement that potential pest or protection problems for each Management Unit be provided.

### **Adopt § 1094.6(n)(2)-(3) Contents of WFMP**

The proposed adoptions specify the description of each Management Unit shall also include the Management Unit history and yarding methods to be used.

These provisions are necessary for the project proponent, public and interdisciplinary review team to evaluate the expected impacts associated with implementation of the WFMP for each Management Unit.

§ 1094.6(n)(2) was informed by 14 CCR § 1090.5(g), which includes the requirement that stand management history for each Management Unit be provided.

§ 1094.6(n)(3) is substantially the same as PRC § 4597.2(i)(1)(B) and was informed by 14 CCR § 1090.5(i), which includes the requirement that the type of yarding systems to be used for each Management Unit be provided. Regarding WFMP congruency with the NTMP, the Board decided not to include 14 CCR § 1090.5(i)(4) in the contents of the WFMP due to the perceived lack of clarity of that provision.

### **Adopt § 1094.6(o) Contents of WFMP**

The proposed adoption is a preamble that specifies that if a WFMP shall contain an assessment for LTSY projections that projects a reduction, over 100-year planning horizon or shorter planning horizon until growth and yield are balanced, in quadratic mean diameter of trees greater than 12 inches in diameter or a reduced level of inventory for a Major Stand Type or for a Stand or Strata that make up greater than 10 percent and less than 25 percent of the WFMP area and provides a leading statement that the assessment shall include the information as required in § 1094.6(o)(1)-(4), which is necessary for clarity to inform the regulated public of the conditions that trigger an assessment and the contents of the assessment, if required.

This provision is necessary to provide further review and propose mitigation measures to mitigate any potential significant adverse impacts to fish or wildlife habitat.

This provision is substantially the same as PRC § 4597.2(i)(2)(A), except adds “over 100-year planning horizon or shorter planning horizon until growth and yield are balanced” for clarity.

### **Adopt § 1094.6(o)(1)-(4) Contents of WFMP**

The proposed adoptions specify that the WFMP shall contain an assessment, if required, that shall contain a narrative that (1) Addresses state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d), that timber operations could adversely impact by potential changes to habitat. (2) Addresses species habitat needs utilizing the “WHR system” described in “A Guide to Wildlife Habitats in California,” California Department of Fish and Wildlife, 1988, herein incorporated by reference, or comparable typing system approved by the Director after consultation with the California Department of Fish and Wildlife. (3) Addresses constraints to timber management, the impact of the availability and distribution of habitats on the ownership and within the cumulative impacts assessment area identified in the Plan in relation to the harvest schedule, and the impacts of the planned management activities utilizing the existing habitat as the baseline for comparison. and (4) Discusses and includes feasible measures planned to avoid or mitigate potentially significant adverse impacts on fish or wildlife, which can include, but is not limited to, recruitment or retention of large down logs greater than 16 inches in diameter and 20 feet in length, retention of trees with structural features such as basal hollows, cavities, large limbs, or broken tops, retention of hardwoods, and retention or recruitment of snags greater than 24 inches in diameter and 16 feet in height.

These provisions are necessary to provide further review and propose mitigation measures to mitigate any potential significant adverse impacts to fish or wildlife habitat . Specifically these provisions are necessary to provide disclosure of species habitat needs and provide conservation measures for wildlife species that may be negatively affected by operations under a WFMP and are necessary to provide disclosure of potential impacts of timber operations conducted under the WFMP on a temporal basis both within the plan area in contrast to the cumulative impacts assessment area. Additionally, these provisions are necessary to provide conservation measures for biological legacies and habitat elements located within the boundaries of WFMPs.

These provisions are substantially the same as PRC § 4597.2(i)(2)(A)(i)-(iv), except the Board made specific PRC § 4597.2(i)(2)(A)(i) by replacing “candidate, threatened, endangered, and sensitive species, and other fish and wildlife species” with “state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d),” which is necessary for clarity. The Board also made specific PRC § 4597.2(i)(2)(A)(ii) by qualifying ” or comparable typing system” with “approved by the Director after consultation with the California Department of Fish and Wildlife”, which was also necessary for clarity. Both of these modifications to statute were done in consultation with CDFW.

### **Adopt § 1094.6(p) Contents of WFMP**

The proposed adoption specifies that a WFMP shall contain a certification by the RPF preparing the Plan that the RPF or the RPF’s Supervised Designee has personally inspected the Plan area and has clearly explained to the Working Forest Landowner(s)

that the Plan is a long-term commitment that may require ongoing investments, including inventory sampling and logging road maintenance, for the purpose of managing the Plan.

This provision is necessary to clarify the professional role and standards of RPFs in regards to familiarity with the plan area and interaction with the Working Forest landowner(s). This provision is also necessary for the Working Forest Landowner to enter into a WFMP with the knowledge that entering this agreement obligates them to periodic capital outlays in order to continue to manage their forestlands under this Plan. Development of a WFMP requires a significant commitment of resources by a landowner. Requiring this disclosure ensures that predictable costs will not be realized until future years do not come as a surprise to the landowner.

This provision is substantially the same as PRC § 4597.2(j) and (k) and the first part is substantially the same as 14 CCR 1090.5(ii).

#### **Adopt § 1094.6(q) Contents of WFMP**

The proposed adoption is a preamble that specifies that a WFMP shall contain a description of a future schedule of inventory sampling and analysis of LTSY and provides a leading statement that the description shall consider the information as required in § 1094.6(q)(1)-(3), which is necessary for clarity to inform the regulated public of the information to be considered in a description of a future schedule of inventory sampling and analysis of LTSY.

This provision was informed by PRC §§ 4597.2(c) and 4597.2(f). It is necessary to provide additional clarity, encourage accountability and to facilitate review and enforcement above and beyond the NTMP rules, which do not substantially contain this provision, as a WFMP can be proposed up to 15,000 acres and, accordingly, needed more rigorous inventory sampling and review.

#### **Adopt § 1094.6(q)(1)-(3) Contents of WFMP**

The proposed adoptions specify that the description of a future schedule of inventory sampling and analysis of LTSY shall consider (1) Site class, projected growth and yield and harvest(s). (2) Original projections or model calibration and accuracy. and (3) Episodic events including disease and drought caused tree mortality, windthrow, fire and reforestation.

These provisions were informed by PRC §§ 4597.2(c) and 4597.2(f) and are necessary to provide additional clarity, encourage accountability and to facilitate review and enforcement above and beyond the NTMP rules, which do not substantially contain these provisions, as a WFMP can be proposed up to 15,000 acres and, accordingly, needed more rigorous inventory sampling and review.

These provisions are necessary to enable compliance and facilitate enforcement regarding the periodic update of inventory sampling and analysis of LTSY. This is necessary to check the accuracy of the original projections, and account for unforeseen events that may impact the realization of those projections.

Specifically, the necessity of § 1094.6(q)(1) is to assure that RPFs take into consideration any potential changes in site class, rates of observable growth and harvesting that has, or may, occur into consideration in future LTSY projections.

Specifically, the necessity of § 1094.6(q)(2) is to assure that RPFs take into consideration technical information from past projections to compare and contrast against future projections for the purposes of verification and calibration of future LTSY projections.

Specifically, the necessity of § 1094.6(q)(3) is to assure that RPFs take into consideration any affects from biotic or abiotic changes to the environment. It is recognized that growth and yield projections could be significantly altered based on changes in environmental conditions and therefore accounted for in LTSY projections.

#### **Adopt § 1094.6(r) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of any cultural or historical resources known to exist with a description of possible impacts and protection methods to be used during timber operations.

This provision is necessary to prevent the degradation of cultural and historical resources during implementation of the WFMP.

Pursuant to the definition of “Native American Archaeological or Cultural Site”, in 14 CCR § 895.1, “Native American Archaeological” and “Cultural” are used interchangeably. Regarding the application of these terms and the term “historical”, RPFs must complete training and be certified to be qualified to prepare a Confidential Archaeological Addendum, which means the archaeological and historical resources survey and impact assessment report prepared for a proposed timber operation. During this training RPFs become proficient with the application of these terms.

This provision is substantially the same as 14 CCR § 1090.5(k), the comparable provision in the NTMP rules.

#### **Adopt § 1094.6(s) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain disclosure regarding whether a timberland conversion certificate is in effect, its date of expiration, and its identification number.

This provision is necessary to make known to the public and interdisciplinary review team whether any portion of the proposed WFMP area is planned to be devoted to uses other than the growing of timber to evaluate the impacts of these other uses.

This provision is substantially the same as 14 CCR § 1090.5(l), the comparable provision in the NTMP rules.

**Adopt § 1094.6(t) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain disclosure regarding whether a timber harvesting plan is on file with the Department for any part of the Plan area and if a Report of Satisfactory Stocking has been issued by the Department (show Plan number).

This provision is necessary to make known to the public and interdisciplinary review team whether any portion of the proposed WFMP is under an active permit for timber management activities, and whether all obligations of that permit have been met. It is likely that landowners developing a WFMP will be already engaged in active management of their timberlands to, at least in part, generate the capital required to develop a WFMP. These active plans/operations need to be accounted for in any descriptions of the baseline environmental conditions in the development of the WFMP.

This provision is substantially the same as 14 CCR § 1090.5(m), the comparable provision in the NTMP rules.

**Adopt § 1094.6(u) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of potential impacts to, and protections for, the quality and beneficial uses of water.

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate evaluation of whether implementation of the WFMP will have a significant impact on the beneficial uses of water. This provision may, in part, be satisfied by the information received pursuant to § 1094.3(g), which requires the noticing identified in 14 CCR § 1032.10, requesting information on domestic water supplies.

This provision is substantially the same as 14 CCR § 1090.5(o), the comparable provision in the NTMP rules.

**Adopt § 1094.6(v) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of how the site preparation standards and stocking standards of the selected silvicultural method, or that level of stocking above the minimum that will achieve long term sustained yield (LTSY), will be met.

This provision is necessary to provide information to the public and interdisciplinary review team to evaluate whether implementation of the WFMP will have a significant impact on the productivity of the state's timberlands.

This provision is substantially the same as 14 CCR § 1090.5(r), the comparable provision in the NTMP rules, except that the Board added "of the selected silvicultural method, or that level of stocking above the minimum that will achieve long term sustained yield (LTSY)", which was informed by 14 CCR § 913.10 [933.10, 953.10](a)(1). This addition was in response to the Department's concern that stocking

under NTMPs is being reduced to the minimum stocking standards as opposed to stocking commensurate with LTSY, so the Board added this phrase for clarity.

**Adopt § 1094.6(w) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of slash treatment for site preparation, fire protection and pest protection consideration.

This provision is necessary to provide information to the public and interdisciplinary review team to facilitate evaluation of whether slash treatment is commensurate with site preparation and adequately mitigates fire and pests.

This provision is substantially the same as 14 CCR § 1090.5(t), the comparable provision in the NTMP rules.

**Adopt § 1094.6(x) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of the cumulative impacts analysis with supporting information, including impact(s) of projected timber operations over the life of the Plan.

This provision is necessary to provide information to the public and interdisciplinary review team to facilitate evaluation of whether successive management activities associated with implementation of the WFMP will lead to cumulative impacts to public trust resources.

This provision is substantially the same as 14 CCR § 1090.5(u), the comparable provision in the NTMP rules, except the Board replaced “effects” with “impacts” to make consistent with “Cumulative impacts”, a defined term in 14 CCR 895.1, although “effects” and “impacts” are considered synonymous.

Additionally, a cumulative impacts assessment is required pursuant to Technical Rule Addendum No. 2 (14 CCR § 912.9 [932.9, and 952.9])

**Adopt § 1094.6(y) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a copy of the California Forest Practice Rules in effect at the time of WFMP approval, which the Department shall make available.

This provision is necessary for the Working Forest Landowner to be knowledgeable of the provisions of the FPRs at the time of WFMP approval because the WFMP is a long-term permit and the Forest Practice Rules (FPRs) will change over time. A copy of the FPRs in effect at the WFMP approval is also critical in the application of §§ 1094.8(j)(2) and 1094.23(a)(2).

This provision is substantially the same as 14 CCR § 1090.5(v), the comparable provision in the NTMP rules, except the Board made specific the responsibility for providing the FPRs lies with the Department rather than the plan submitter. The



Department accepted this responsibility given that the agency is the repository of the FPRs and it makes sense for the Department to provide this information in lieu of the plan submitter.

**Adopt § 1094.6(z) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain explanation and justification for, and specific measures to be used for, tractor operations on unstable areas, on slopes over 65%, and in areas where slopes average over 50% where the EHR is high or extreme.

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether implementation of the WFMP adequately mitigates potential significant impacts from ground based operations on steep or unstable slopes.

This provision is substantially the same as 14 CCR § 1090.5(y), the comparable provision in the NTMP rules.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

**Adopt § 1094.6(aa) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain explanation and justification for tractor operations in areas designated for cable yarding.

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether implementation of the WFMP adequately mitigates potential significant impacts from ground based operations in areas designated for cable yarding.

This provision is substantially the same as 14 CCR § 1090.5(z), the comparable provision in the NTMP rules.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

**Adopt § 1094.6(bb) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a winter period operating plan where appropriate.

The winter period operating plan is described in 14 CCR § 914.7 [934.7, 954.7](b).

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether implementation of the

WFMP adequately mitigates potential significant impacts from winter operations. Special consideration is given to winter operations given soils are more likely to be saturated and operations can cause compaction, with an associated reduction of productivity, or delivery of sediment to a watercourse, with associated impacts on timber production, water quality and aquatic habitats.

This provision is substantially the same as 14 CCR § 1090.5(aa), the comparable provision in the NTMP rules.

#### **Adopt § 1094.6(cc) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain explanation and justification for use of landings, logging roads and skid trails in the protection zones of Watercourses, Lakes, Wet Meadows, or Other Wet Areas.

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether implementation of the WFMP adequately mitigates potential significant impacts to watercourses. The potential for a road, landing, or skid trail to deliver sediment to a watercourse, impacting water quality and aquatic habitats, increases with its proximity to the watercourse.

This provision was informed by 14 CCR § 1090.5(bb), the comparable provision in the NTMP rules, which requires that the NTMP contain explanation and justification for use of watercourse, marshes, wet meadows, and other wet areas as landings, roads, or skid trails. The Board expanded the area for which an explanation and justification was required, above and beyond the NTMP rules, to the protection zone of these resources, which was deemed necessary for protection of them under a WFMP because it is a permanent Plan.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

#### **Adopt § 1094.6(dd)-(ff) Contents of WFMP**

The proposed adoptions specify that the WFMP shall contain (dd) Explanation and justification of any in-lieu or alternative practices for Watercourse and Lake protection. (ee) Explanation of alternatives to standard rules for harvesting and erosion control. and (ff) Explanation and justification for landings that exceed the maximum size specified in the rules.

These provisions are necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether alternatives to the standard rules proposed in the WFMP provide equal or better protection to public trust resources as compared to the standard rules.

These provisions are substantially the same as 14 CCR § 1090.5(cc)-(ee), the comparable provisions in the NTMP rules.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

**Adopt § 1094.6(gg) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of soils, surface erosion hazard, mass wasting erosion hazard, and erosion control measures.

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether the mitigations proposed in the WFMP are adequate to prevent significant impacts from surface erosion or mass wasting.

This provision is substantially the same as 14 CCR § 1090.5(p), the comparable provision in the NTMP rules.

**Adopt § 1094.6(hh) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of the existing and proposed road system to be used in implementation of the WFMP, including the diameter of any permanent culverts on Class I, II, or III Watercourses and the methods used to determine the diameter.

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether the road system to be used during implementation of the WFMP may cause significant impacts to public trust resources.

This provision is substantially the same as 14 CCR § 1090.5(q), the comparable provision in the NTMP rules, except that the Board incorporated “including the diameter of any permanent culverts on Class I, II, or III Watercourses and the methods used to determine the diameter”, which was informed by 14 CCR § 923.9(e) and 1090.5(w)(7) and which the Board deemed necessary for congruency with the Road Rules, adopted in 2014, and to facilitate review.

**Adopt § 1094.6(ii) Contents of WFMP**

The proposed adoption specifies that the WFMP shall contain a description of Lakes, Wet Meadows and Other Wet Areas.

This provision goes above and beyond the NTMP rules, which do not contain this provision, but that the Board deemed necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of the types of aquatic resources that may be at risk to impacts from implementation of the WFMP.

**Adopt § 1094.6(jj) Contents of WFMP**

The proposed adoption specifies that under a WFMP an RPF may propose, and the

Director may approve, a standard operating practice(s) that could be utilized in site-specific locations during future operations under an approved WFMP. Standard operating practices are limited to contents pursuant to 14 CCR §§ 1094.6(z) and 1094.6(cc).

This provision was developed through consultation with representatives from California Licensed Foresters Association (CLFA) and the Department. It was recognized that it could be very difficult for an RPF to cover a WFMP, which could contain up to 15,000 acres, with the necessary intensity to locate every use described in § 1094.6(z) and (cc), and which are generally the most common exception to the rules. Therefore, this provision was developed to provide flexibility to RPFs and landowners who want to develop standardized best management practices for these uses.

This provision is necessary to provide information to the project proponent, public and interdisciplinary review team about programmatic ways in which tractor operations on steep or unstable slopes and roads and landings in close proximity to watercourses will be treated during implementation of the WFMP to facilitate review, communication, operations and enforcement.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

#### **Adopt § 1094.6(jj)(1) Contents of WFMP**

The proposed adoption specifies a representative sample of each type of proposed standard operating practice(s) shall be flagged in the field by the RPF, or Supervised Designee, and available for field review by the interdisciplinary review team.

This provision was developed through consultation with representatives from California Licensed Foresters Association (CLFA) and the Department and was deemed necessary to facilitate field review by the interdisciplinary review team, to allow the them the opportunity to inspect the proposal by the RPF to facilitate their review of whether the proposed standard operating practice(s) is reasonable and adequately protects the resources at risk.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

#### **Adopt § 1094.6(jj)(2) Contents of WFMP**

The proposed adoption specifies for locations where the prescribed standard operating practice(s) will not adequately address the site specific conditions, the RPF, through consultation with the interdisciplinary review team, may develop alternative mitigations that shall be incorporated into the WFMP through a deviation prior to submittal of a Working Forest Harvest Notice for the area in which the developed mitigation measure(s) applies and is located.

This provision was developed through consultation with representatives from California Licensed Foresters Association (CLFA) and the Department to address the instances where a standard operating practice has been developed and approved for uses described in 14 CCR §§ 1094.6(z) and (cc), but is found to be insufficient to address the environmental condition of specific sites. As a consequence of this provision, the RPF would be allowed to develop an alternative mitigation measure, which would have to be incorporated into the approved WFMP through a deviation prior to submittal of a WFHN that covers the area in which the specific sites, for which the newly developed mitigation measure(s) were established, is located. It was recognized that it could be very difficult for an RPF to cover a WFMP, which could contain up to 15,000 acres, with the necessary intensity to locate every use described in § 1094.6(z) and (cc), and which are generally the most common exception to the rules. By the same token, it would be difficult to identify all locations that a developed standard operating procedure(s) would not apply. Therefore, this provision was developed to provide RPFs and landowners with the necessary flexibility to fully address all necessary conditions of a specific location(s) where a standard operating practice(s) would not sufficiently work, and to provide a process in which the newly developed mitigation measures would be documented and incorporated into the approved WFMP.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

#### **Adopt § 1094.6(kk) Contents of WFMP**

The proposed adoption specifies that proprietary information shall be treated consistent with PRC § 21160 and GOV § 6254.7.

During development of the proposed regulations, the Board received comment from landowners requesting protection of proprietary information that may be contained within a proposed or approved WFMP. This provision is necessary to provide Working Forest Landowners an expectation that proprietary information submitted to the Department will remain confidential. Landowners are specifically sensitive about disclosing growth and yield data to competitors or potential purchasers of their forest products. However, this information is important for the Department to review as part of a comprehensive evaluation of the WFMP. This provision ensures that providing this information will not result in the Working Forest Landowner being placed at a competitive disadvantage in the marketplace.

This provision goes above and beyond the NTMP rules, which do not contain this provision, but that the Board deemed necessary to include in response to the comment received. This provision was informed by PRC § 4597.12(d) and 14 CCR § 1091.4.5(b).

#### **Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)**

Given that the WFMP rules are based on the NTMP rules and exceptions, in lieu or alternatives exist in the NTMP rules, the Board determined allowing exceptions, in lieu or alternatives to the standard rules was congruent with statute. However, exceptions, in lieu or alternatives to the standard rules require additional information. Following is a crosswalk to the additional information that is required and which the Board deemed necessary to facilitate the evaluation by the project proponent and the Department of the exception, in lieu or alternative in terms of whether it will result in a significant adverse environmental impact.

- (z) Explanation and justification for, and specific measures to be used for, tractor operations on unstable areas, on slopes over 65%, and in areas where slopes average over 50% where the EHR is high or extreme. The project proponent must comply with 14 CCR § 914.2 [934.2,954.2](f)(3).
- (aa) Explanation and justification for tractor operations in areas designated for cable yarding. The project proponent must comply with 14 CCR § 914.3 [934.3, 954.3](e).
- (cc) Explanation and justification for use of landings, logging roads and skid trails in the protection zones of Watercourses, Lakes, Wet Meadows, or Other Wet Areas. The project proponent must comply with 14 CCR § 923 [943, 963](c) and 1094.6(e)(4)(B).
- (dd) Explanation and justification of any in-lieu or alternative practices for Watercourse and Lake protection. The project proponent must comply with 14 CCR §§ 916.1 [936.1, 956.1] and 916.6 [936.6, 956.6].
- (ee) Explanation of alternatives to standard rules for harvesting and erosion control. The project proponent must comply with 14 CCR § 914.9 [934.9, 954.9].
- (ff) Explanation and justification for landings that exceed the maximum size specified in the rules. The project proponent must comply with 14 CCR § 1094.6(e)(5).

In general, the Forest Practice Rules provide for the RPF to propose, and gives the Director discretion to approve, exceptions, in lieu or alternatives to the standard rules when site specific conditions in the field require it and can be shown to substantially lessen significant adverse impacts on the environment from timber harvesting. However, the Director has broad discretion to ask for more information to ensure that the project will not cause a significant adverse impact. Usually, at a minimum, the project proponent will need to evaluate the exception as compared to the standard rule through the prism of substantially lessening significant adverse impacts.

Other examples of exceptions, in lieu or alternatives to the standard rules include 14 CCR § 923 [943, 963](c) which provides this flexibility specific to Logging Roads and landings, 14 CCR § 916.3 [936.3, 956.3](c) which provides this flexibility for skid trail use in the WLPZ, 14 CCR § 923.9 [943.9, 963.9](e)(1) which provides this flexibility with regard to flagging logging road water course crossings, 14 CCR § 923.6 [943.6, 963.6](g) which provides this flexibility for log hauling or other heavy equipment use during the winter period and 14 CCR § 923.1 [943.1, 963.1](d) which provides this flexibility for the planning and siting of logging roads and landings to avoid unstable areas and connected headwater swales.

Pursuant to § 1094.6(jj), a RPF may propose, and the Director may approve, a standard operating practice(s) in a WFMP that could be utilized in site-specific locations identified in the WFHN during future operations under an approved WFMP. Specifically, § 1094.8(t) requires that the project proponent describe the standard operating practice(s) to be implemented within the area covered under the Working Forest Harvest Notice and § 1094.8(u)(12) requires that the project proponent map the location(s) of standard operating practice(s) to be implemented within the area covered under the WFHN.

Standard operating practices are limited to contents pursuant to 14 CCR §§ 1094.6(z) and 1094.6(cc):

- specific measures to be used for, tractor operations on unstable areas, on slopes over 65%, and in areas where slopes average over 50% where the EHR is high or extreme.
- use of landings, logging roads and skid trails in the protection zones of Watercourses, Lakes, Wet Meadows, or Other Wet Areas.

However, the project proponent is required to provide, pursuant to § 1094.6 (jj)(1) and (2), the following:

- (1) A representative sample of each type of proposed standard operating practice(s) shall be flagged in the field by the RPF, or Supervised Designee, and available for field review by the interdisciplinary review team.
- (2) For locations where the prescribed standard operating practice(s) will not adequately address the site specific conditions, the RPF, through consultation with the multi-disciplinary review team, may develop alternative mitigations that shall be incorporated into the WFMP through a deviation prior to submittal of a Working Forest Harvest Notice for the area in which the developed mitigation measure(s) applies to is located.

The Board deemed that the effects of these exceptions, in lieu or alternatives to the standard rules (§ 1094.6, subsections (z), (aa), (cc)-(ff)) and standard operating practice(s) (§ 1094.6 (jj)) will be adequately mitigated during plan review. The contents of the WFMP will be analyzed through a CEQA equivalent process when the WFMP is reviewed, which includes review by the interdisciplinary review team and public and receipt of public comment prior to plan approval.

### **Adopt § 1094.7 Working Forest Harvest Notice**

The proposed adoption specifies that the Designated Agent shall file a Working Forest Harvest Notice (WFHN) with the Department in writing and that a WFHN shall be filed prior to the harvesting of any timber and shall be effective for a maximum of one (1) year from the date of filing. It further specifies that the Designated Agent shall notify the timberland owner(s) by certified mail that the WFHN has been submitted and shall certify that mailing to the Department. Finally, this provision specifies, in spite of any other provisions of the FPA, when a RPF certifies by written declaration, on behalf of the timber owner(s) or operator(s), that the WFHN conforms to and meets the requirements of the approved WFMP under which it is filed, timber operations may

commence three (3) working days upon filing of a WFHN and if the WFHN has been filed by mailing, operations may commence five (5) working days after the WFHN has been mailed.

This provision is necessary to provide a process by which timber harvesting in compliance with an approved WFMP may commence. Filing a WFHN provides the Department notice of the location and extent of the harvesting operations for compliance and enforcement purposes.

This provision was informed by 14 CCR § 1090.6, the comparable provision in the NTMP rules, and PRC § 4597.11 and PRC § 4597.15. Differences include:

- PRC § 4597.11 specifies the working forest landowner shall submit the WFHN, which the Board changed to the Designated Agent, which was necessary to facilitate Department communication and enforcement, designating a single responsible party for this task, when multiple landowners are participating in a WFMP.
- 14 CCR § 1090.6 and PRC § 4597.15 specify that timber operations may commence immediately if a registered professional forester certifies by written declaration, on behalf of the timber owner or operator, that the WFHN conforms to and meets the requirements of the approved WFMP under which it is filed unless the notice has been filed by mailing, in which case operations may commence three days after the notice has been mailed. The Board changed “immediately” to three (3) working days and three days to five (5) working days, which the Board deemed necessary to allow more time for the Department to assess the WFHN for completeness and was based, in part, on comment from Department and the discussion precipitated by the 03/20/2016 CAG letter.

### **Adopt § 1094.8 Working Forest Harvest Notice Content**

The proposed adoption is a preamble that specifies that the Working Forest Harvest Notice (WFHN) shall be a public record, which shall include Department posting on the Department’s Internet Website. It also specifies that all necessary deviations shall be approved by the Director, pursuant to 14 CCR §§ 1094.23 and 1094.24, prior to submission of a WFHN. Finally, it provides a leading statement that the description shall include the information as required in § 1094.8(a)-(w), which is necessary to inform the regulated public of the contents required to be included in the WFHN and to inform them of the expectation that the WFHN will be readily available for public inspection, and that deviations to the WFMP must be approved prior to submission of a WFHN.

The requirement that all necessary deviations be approved by the Director, pursuant to 14 CCR §§ 1094.23 and 1094.24, prior to submission of a WFHN was incorporated at the request of the Department and was deemed necessary to inform RPFs, Designated Agents and Plan Submitters that all necessary deviations to the WFMP that pertain to the area included in the WFHN must be approved prior to submittal of a WFHN, so that harvesting under any individual WFHN will be in full compliance with the approved WFMP.



This provision was informed by 14 CCR § 1090.7, the comparable provision in the NTMP rules, and PRC §§ 4597.4 and 4597.11.

**Adopt § 1094.8(a)-(e) Working Forest Harvest Notice Content**

The proposed adoptions specify that the WFHN shall contain the name, address and telephone number of (a) the timberland owner(s) (b) the Designated Agent (c) the timber owner(s) (if different from the timberland owner(s)) (d) the licensed timber operator(s) conducting operations and their license number and person responsible for on the ground supervision of timber operations (if different than the LTO) and (e) the RPF who prepared the WFHN and their registration number and the RPF responsible pursuant to 14 CCR § 1094.11(if different) and their registration number.

These provisions are necessary so the Department has the names and contact information for each of the parties responsible in the implementation of the WFHN to facilitate communication and enforcement.

These provisions are substantially the same as 14 CCR § 1090.7(b), the comparable provision in the NTMP rules, except that they go above and beyond the NTMP rules, which do not require the inclusion of the RPF registration number and LTO license number, which the Board deemed necessary for efficient identification of responsible parties. Additionally, the contact information of the Designated Agent, in § 1094.8(b), was added, which the Board deemed necessary for the reasons provided in § 1094.2(a), Definition of “Designated Agent”. These provisions were also informed by PRC § 4597.11(a)-(c).

**Adopt § 1094.8(f) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain a legal description of the land, including acreage (on which the work is proposed to be done) and the identification number of the WFMP.

This provision requires a clear description, including acreage (on which the work is proposed to be done) be included in the WFHN, which is necessary for efficient geospatial identification for communication and enforcement. The public land survey description (which includes township, range, and section number(s)) also facilitates geospatial identification of the project area on other maps that contain locations of sensitive resources. Additionally, identifying the approved WFMP under which the WFHN is being submitted allows for the Department, other agencies and the public to efficiently identify the approved WFMP that contains the provisions with which operations must comply.

This provision is substantially the same as 14 CCR § 1090.7(a) and (d), the comparable provisions in the NTMP rules, except they go above and beyond the NTMP rules, which do not require including acreage, on which the work is proposed to be done, which the Board deemed necessary to require to facilitate communication and enforcement. This provision is also informed by PRC § 4597.11(d).

**Adopt § 1094.8(g) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain a statement that no archaeological sites have been discovered in the harvest area since the approval of the WFMP or approved deviations.

This provision is necessary to ensure the protection of archaeological resources during implementation of the WFHN.

This provision is substantially the same as 14 CCR § 1090.7(g), the comparable provision in the NTMP rules, and PRC § 4597.11(e) except it goes above and beyond the NTMP rules, which do not include the language “or approved deviations”, which the Board deemed necessary for clarity.

### **Adopt § 1094.8(h) Working Forest Harvest Notice Content**

The proposed adoption is a preamble that specifies that the WFHN shall contain a statement that state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d), have not been discovered, or are not publically disclosed in writing, within or adjacent to the logging area, since the approval of the WFMP, unless the approved WFMP is amended pursuant to either 14 CCR § 1094.23 or 14 CCR § 1094.24, consistent with 14 CCR § 1094.8(h)(2). This provision also requires that, after the initial year the Plan is approved and prior to submitting the WFHN, a review shall be conducted of the California Natural Diversity Database or another public database approved by the Director after consultation with the Department of Fish and Wildlife for any species listed as state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d). Finally, this provision provides a leading statement that the WFHN shall comply with § 1094.8(h)(1)-(2) when a Working Forest Harvest Notice is filed, and after the initial year the Plan is approved.

This provision is necessary to require verification of the absence of sensitive species relative to the disclosures contained in the approved WFMP and to provide the regulated public with a process to facilitate the protection of sensitive plant and animal species during implementation of WFMPs and associated WFHNs.

This provision is substantially the same as PRC § 4597.11(f), except the Board made it specific based on input from the California Department of Fish and Wildlife and the Department, the substantive differences as compared PRC § 4597.11(f) follow:

- species was made specific, informed by the California Department of Fish and Wildlife and the Department
- “or are not publically disclosed in writing” was added given that the California Natural Diversity Database may not always be current.
- “harvest area” was replaced with “logging area” to extend the requirements in these provisions from “where trees are felled and removed” to “the area in which timber operations are being conducted”, which the Board deemed necessary to avoid a significant adverse impact

- “or adjacent to the logging area” was added, which the Board deemed necessary to facilitate the avoidance of significant adverse impacts to the species identified in this provision
- “unless the approved WFMP is amended pursuant to either 14 CCR § 1094.23 or 14 CCR § 1094.24, consistent with 14 CCR § 1094.8(h)(2)” was added, which the Board deemed necessary for clarity
- “or another public database approved by the Director after consultation with the Department of Fish and Wildlife” was added, which the Board deemed necessary for flexibility

This provision was also informed by 14 CCR § 1090.7(h) and (l), the comparable provisions in the NTMP rules, except it goes above and beyond the NTMP rules, which the Board deemed necessary to facilitate the protection of sensitive plant and animal species during implementation of the WFHN.

### **Adopt § 1094.8(h)(1) Working Forest Harvest Notice Content**

The proposed adoption specifies that when a WFHN is filed, and after the initial year the Plan is approved, documented occurrences obtained from a review of public and readily available sources of species that are state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d) within the biological assessment area, and outside the area of timber operations, identified in the WFHN, and not addressed in the approved Plan shall be submitted to the Director as a minor deviation concurrently with the filing of a WFHN.

This provision is necessary to provide the regulated public with a process to facilitate the protection of sensitive plant and animal species during implementation of WFMPs and associated WFHNs.

This provision is substantially the same as PRC § 4597.11(f)(1), except the Board made it specific based on input from the California Department of Fish and Wildlife and the Department, the substantive differences as compared PRC § 4597.11(f)(1) follow:

- species was made specific, informed by the California Department of Fish and Wildlife and the Department
- “outside the area identified in the working forest harvest notice” was replaced with “outside the area of timber operations identified in the working forest harvest notice” for clarity

This provision was also informed by 14 CCR § 1090.7(h) and (l), the comparable provisions in the NTMP rules, except it goes above and beyond the NTMP rules, which the Board deemed necessary to facilitate the protection of sensitive plant and animal species during implementation of the WFHN.

### **Adopt § 1094.8(h)(2) Working Forest Harvest Notice Content**

The proposed adoption specifies that when a WFHN is filed, and after the initial year the Plan is approved, documented occurrences of species that are state or federally listed

threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d) and discovered within or adjacent to the area of timber operations, identified in the Working Forest Harvest Notice, and not addressed in the approved Plan shall be submitted to the Director as a deviation to the WFMP, prior to filing a Working Forest Harvest Notice. The deviation shall contain take avoidance and other mitigation measures developed in consultation with the Department and the appropriate listing agency(s), if no such information is currently contained within the approved Plan or incidental take authorization is provided by the appropriate listing agency(s).

This provision is necessary to provide the regulated public with a process to facilitate the protection of sensitive plant and animal species during implementation of WFMPs and associated WFHNs.

This provision is substantially the same as PRC § 4597.11(f)(2), except the Board made it specific based on input from the California Department of Fish and Wildlife and the Department, the substantive differences as compared PRC § 4597.11(f)(2) follow:

- species was made specific, informed by the California Department of Fish and Wildlife and the Department
- “occurrences” was made specific through the addition of the word “documented”, which the Board deemed necessary to make the requirement achievable
- “inside the area identified in the working forest harvest notice” was replaced with “within or adjacent to the area of timber operations, identified in the Working Forest Harvest Notice” for clarity and to facilitate the avoidance of a significant adverse impact to the species identified in this provision
- the required take avoidance measures was qualified with it must be developed in consultation the Department and the appropriate listing agency(s), which the Board deemed necessary based on input from the California Department of Fish and Wildlife

This provision was also informed by 14 CCR § 1090.7(h) and (l), the comparable provisions in the NTMP rules, except it goes above and beyond the NTMP rules, which the Board deemed necessary to facilitate the protection of sensitive plant and animal species during implementation of the WFHN.

#### **Adopt § 1094.8(i) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain a statement that, based on a field evaluation, there are no physical environmental changes in the Working Forest Harvest Notice area that are so significant as to require any deviation of the WFMP.

This provision is necessary to require verification of field conditions and to provide the regulated public with a threshold of significance associated with physical environmental changes.

This provision is substantially the same as 14 CCR § 1090.7(i), the comparable

provision in the NTMP rules, and PRC § 4597.11(g).

**Adopt § 1094.8(j) Working Forest Harvest Notice Content**

The proposed adoption is a preamble that specifies that the WFHN shall contain a certification by the RPF that states either of the following as specified in § 1094.8(j)(1)-(2).

This provision is necessary to require verification that operations under the WFHN shall protect the public trust resources.

This provision is substantially the same as 14 CCR § 1090.7(l), the comparable provision in the NTMP rules, and PRC § 4597.11(h).

**Adopt § 1094.8(j)(1)-(2) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain RPF certification that states either of the following (1) The Working Forest Harvest Notice as carried out will protect the beneficial uses of water, including domestic water supplies, soil stability, forest productivity, and wildlife as provided by the Board rules and regulations and other applicable provisions of law. (2) Compliance with the Board rules and regulations and the provisions of the FPA that were in effect at the time the WFMP was approved will not result in any significant degradation to the beneficial uses of water, including domestic water supplies, soil stability, forest productivity, or wildlife and shall protect all listed species. § 1094.8(j)(2) also specifies that this provision shall only apply if the RPF certifies that adherence to the current or modified Board rules and regulations would cause unreasonable additional expense, pursuant to PRC § 4583, to the Working Forest Landowner(s).

This provision is necessary to require verification that operations under the WFHN shall protect the public trust resources.

§ 1094.8(j)(1) is substantially the same as PRC § 4597.11(h)(1) and 14 CCR § 1090.7(l)(1), the comparable provision in the NTMP rules, except that an example (domestic water supplies) of the beneficial uses of water was added, which the Board deemed necessary for clarity.

§ 1094.8(j)(2) is substantially the same as PRC § 4597.11(h)(2) except that an example (domestic water supplies) of the beneficial uses of water and the statute (PRC § 4583), to provide meaning to the term “unreasonable additional expense”, were added, which the Board deemed necessary for clarity. The Board also used the following document relied upon to provide meaning to the term “unreasonable additional expense”.

Memo from Richard A. Wilson regarding New Regulations for Sensitive Watersheds/Domestic Water Supplies and Late Successional Stage; New Silvicultural Regulations as Changed by the Board of Forestry. February 22, 1994.

§ 1094.8(j)(2) was also informed by 14 CCR § 1090.7(l)(2), the comparable provision in the NTMP rules.

**Adopt § 1094.8(k) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain special provisions to protect unique areas, if any, within the area of timber operations.

This provision is necessary to facilitate the protection of unique areas, as defined in 14 CCR § 895.1, during implementation of the WFHN.

This provision is substantially the same as 14 CCR § 1090.7(j), the comparable provision in the NTMP rules, and PRC § 4597.11(i).

**Adopt § 1094.8(l) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain the expected dates of commencement and completion of timber operations during the year.

This provision is necessary to facilitate enforcement.

This provision is substantially the same as 14 CCR § 1090.7(c), the comparable provision in the NTMP rules, and PRC § 4597.11(j).

**Adopt § 1094.8(m) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain a statement that the WFHN conforms to the provisions of the approved WFMP and if any aspects of the proposed operation are less protective than the current forest practices rules and the FPA, an explanation of the deviation and how resource values will be adequately protected.

This provision is necessary to facilitate the ongoing protection of public trust resources during implementation of the WFHN, under an approved WFMP, as the Forest Practice Rules evolve over time.

This provision is substantially the same as PRC § 4597.11(k). This provision was also informed by 14 CCR § 1090.7(l)(2).

**Adopt § 1094.8(n) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain an updated erosion control implementation plan that reflects erosion control mitigation measures for the harvest area and any appurtenant roads if conditions have changed since the WFMP was approved and a certification from the RPF that no additional listings of water bodies to Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313(d)) list have occurred on the lands of the Plan. Additionally, the proposed adoption specifies the updated Erosion Control Implementation Plan for the Working Forest Harvest Notice, that the WFHN shall contain, shall include disclosure of erosion sites from skid trails, skid trail crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state resulting in significant sediment discharge and violation of water quality requirements and a schedule to implement

erosion controls that prioritizes these significant existing erosion site(s).

This provision is necessary to provide the regulated public with a process to capture changed conditions relative to the conditions captured during the development of the WFMP. This provision is informed by the knowledge that over such a large project area not every erosion control site will be identified during development of the WFMP. This provision is also necessary to capture erosion sites from skid trails and skid trail crossings or any other structures and corresponding schedule to implement erosion controls. Further, this provision is necessary to capture additional listings of water bodies to Section 303(d) of the Clean Water Act. Finally, this provision is necessary to facilitate the protection of water quality, during implementation of the WFHN.

This provision is substantially the same as PRC § 4597.11(l), except the Board added that the erosion control implementation plan shall be the document in which erosion control mitigation measures are reported. The Board also added the requirement that the updated Erosion Control Implementation Plan for the Working Forest Harvest Notice shall include disclosure of erosion sites from skid trails, skid trail crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state resulting in significant sediment discharge and violation of water quality requirements and that the updated erosion control implementation plan shall also include a schedule to implement erosion controls that prioritizes these significant existing erosion site(s). In spite of the effort to achieve congruency with the Road Rules, adopted in 2014, which do not include this requirement, the Board retained this requirement, included in PRC § 4597.2(d), but moved it from WFMP contents, the location specified in PRC § 4597.2(d), to the Working Forest Harvest Notice (WFHN) content. The Board deemed this necessary for practicality based on the knowledge this level of identification would not be reasonable during development of the WFMP given the potential size of the project area, but that it would be reasonable during preparation of the WFHN, which would likely encompass a much smaller area.

This provision was also informed by 14 CCR § 1090.7(k).

#### **Adopt § 1094.8(o) Working Forest Harvest Notice Content**

The proposed adoption specifies the WFHN shall contain the type of equipment to be used for yarding or logging road construction.

This information is essential for the Licensed Timber Operator (LTO) and the Department and is necessary to facilitate operations, compliance and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(f), the comparable provision in the NTMP rules.

#### **Adopt § 1094.8(p) Working Forest Harvest Notice Content**

The proposed adoption specifies the WFHN shall contain instructions on felling, yarding, logging road construction or reconstructions, hauling, erosion control work, site

preparation, erosion control maintenance, winter operations, watercourse protection measures, slash treatment and logging road maintenance.

This information is essential for the Licensed Timber Operator (LTO) and the Department and is necessary to facilitate operations, compliance and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(k), the comparable provision in the NTMP rules, except that the Board replaced “road” with “logging road”, for clarity because “logging road” is a defined term pursuant to 14 CCR § 895.1.

**Adopt § 1094.8(q) Working Forest Harvest Notice Content**

The proposed adoption specifies the WFHN shall contain verification that the LTO has been briefed by the RPF on the content of the Working Forest Harvest Notice and intentions of implementation to comply with the Plan.

This provision is necessary to require verification that operations under the WFHN shall comply with the WFHN and approved WFMP and is essential to facilitate operations, compliance and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(m), the comparable provision in the NTMP rules.

**Adopt § 1094.8(r) Working Forest Harvest Notice Content**

The proposed adoption specifies the WFHN shall contain the minimum diameter of permanent culverts proposed for installation.

This information is essential for the Licensed Timber Operator (LTO) and the Department and is necessary to facilitate operations, compliance and enforcement.

This provision was informed by 14 CCR § 1090.7(n)(7), which, in part, states that if a permanent culvert is involved, its minimum diameter shall be provided.

**Adopt § 1094.8(s) Working Forest Harvest Notice Content**

The proposed adoption specifies the WFHN shall contain a description of Lakes, Wet Meadows and Other Wet Areas.

This provision is necessary to facilitate the protection of Lakes, Wet Meadows and Other Wet Areas, as defined in 14 CCR § 895.1, during implementation of the WFHN.

This provision was informed by 14 CCR § 1090.7(n)(9), which requires mapping these features. This provision also provides consistency with § 1094.6(ii).

**Adopt 14 CCR § 1094.8(t)**

The proposed adoption specifies the WFHN shall contain a description of the standard operating practice(s) to be implemented within the area covered under the Working Forest Harvest Notice.



This information is essential for the Licensed Timber Operator (LTO) and the Department and is necessary to facilitate operations, compliance and enforcement.

This provision was developed through consultation with representatives from California Licensed Foresters Association (CLFA) and the Department. It was recognized that it could be very difficult for an RPF to cover a WFMP, which could contain up to 15,000 acres, with the necessary intensity to locate every use described in § 1094.6(z) and (cc), and which are generally the most common exception to the rules. Therefore, this provision was developed to provide flexibility to RPFs and landowners who want to develop standardized best management practices for these uses.

For further clarification, see “Aggregated Explanation regarding Exceptions, In Lieu or Alternatives to the Standard Rules and Standard Operating Practice(s) specific to § 1094.6 (z), (aa), (cc)-(ff) and (jj)” at the end of the § 1094.6 necessity statements.

### **Adopt § 1094.8(u) Working Forest Harvest Notice Content**

The proposed adoption is a preamble that specifies that a Working Forest Harvest Notice (WFHN) shall contain a United States Geological Survey quadrangle map or equivalent, of a scale not less than 2" per mile with the information as required in § 1094.8(u)(1)–(16). It also specifies that additional maps may be required to show specific details, and may be planimetric and that color coding on maps may be used if they are able to be reproduced in black and white and clearly show all details. Additionally, it specifies that a legend shall be included indicating the meaning of the symbols used and guidance to see the district rules for the appropriate minimum mapping acreages. Finally, this provision specifies that maps shall be updated to reflect current field conditions.

This provision is necessary to inform the regulated public of the type of map, scale of the map and the information to be included on the map. This map is necessary to facilitate operations by geospatially displaying the project area, type of operations, infrastructure and resources that may be impacted by timber operations under the WFHN. This map is essential for the RPF and timber operator to conduct their duties efficiently and satisfactorily and for the Department to facilitate enforcement. This map also facilitates evaluation of the surrounding environmental conditions that may be impacted by these operations.

This preamble is substantially the same as the preamble in 14 CCR § 1090.7(n), the comparable provision in the NTMP rules, except that it has been made specific to the WFHN. The Board also replaced “Color coding shall not be used.” with “Color coding on maps may be used if they are able to be reproduced in black and white and clearly show all details.”, which was necessary to provide flexibility to the project proponent, but at the same time not incur additional cost to the Department to reproduce color maps.

The Board also recognizes that the Natural Resources Agency is working with the Department on electronic THP submission that may include the allowance of color

coding.

**Adopt § 1094.8(u)(1) Working Forest Harvest Notice Content**

The proposed adoption requires that the boundaries of area(s) where timber operations are to occur under the WFHN be mapped, which is necessary to facilitate operations and enforcement.

This provision was informed by 14 CCR § 1090.7(n)(1), the comparable provision in the NTMP rules. 14 CCR § 1090.7(n)(1) requires that the "Boundaries of area to be harvested" be mapped and was changed for the WFHN to "Boundaries of area(s) where timber operations are to occur" because the Board, for clarity, opted to use "timber operations", a defined term pursuant to § 895.1 and deemed this expansion necessary to facilitate enforcement by the Department.

**Adopt § 1094.8(u)(2) Working Forest Harvest Notice Content**

The proposed adoption requires boundaries of areas for specified regeneration methods, intermediate treatments, special harvesting methods, and alternative prescriptions that are to be applied be mapped, which is necessary to facilitate operations and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(n)(2), the comparable provision in the NTMP rules.

**Adopt § 1094.8(u)(3) Working Forest Harvest Notice Content**

The proposed adoption requires the boundaries of area(s) for specified yarding (logging) systems, if more than one (1) system is to be used, be mapped, which is necessary to facilitate operations and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(n)(3), the comparable provision in the NTMP rules.

**Adopt § 1094.8(u)(4) Working Forest Harvest Notice Content**

The proposed adoption is a preamble that specifies that the location of all roads to be used for, or potentially impacted by, timber operations shall be mapped and provides a leading statement that the information as required in § 1094.8(u)(4)(A)–(E) shall be included, which is necessary to inform the regulated public of the information required to be mapped.

This provision is substantially the same as the preamble in 14 CCR § 1094.6(e)(4). The Board deemed that the mapping requirements specified in § 1094.6(e) "Contents of WFMP" that are materially similar to the mapping requirements specified in 14 CCR § 1090.7(n) "Working Forest Harvest Notice Content", after which § 1094.8(u) is being modelled, should be made the same for clarity and consistency. This provision was also informed by 14 CCR § 1090.7(n)(4).

**Adopt § 1094.8(u)(4)(A)-(E) Working Forest Harvest Notice Content**

The proposed adoptions specify that (A) The classification of all roads as permanent, seasonal, temporary, or deactivated (B) Roads and landings located in Watercourses, Lakes, WLPZs, Wet Meadows, or Other Wet Areas, other than at road watercourse crossings (C) Roads that provide access to rock pits and water drafting sites, and the location of water drafting sites (D) Public roads within one-quarter (1/4) mile of the harvest area and (E) The location of significant existing and potential erosion sites on all roads and landings pursuant to 14 CCR § 923.1(e) shall be mapped, which is necessary to facilitate operations and enforcement.

These provisions are substantially the same as § 1094.6(e)(4)(A)-(E). The Board deemed that these mapping requirements which are materially similar to the mapping requirements specified in 14 CCR § 1090.7(n)(4), after which § 1094.8(u) is being modelled, should be made the same for clarity and consistency. Additionally, in spite of the legislative intent for the WFMP to built upon the model of the NTMP and in spite of § 1094.8(u)(4)(A)-(E) not being wholly required to be mapped pursuant to the NTMP Notice of Timber Operations Content rules, for the purposes of congruency with the Road Rules, adopted in 2014, and in response to requests by representatives of CGS and WQ, the Board ultimately decided to include these provisions. This is necessary to minimize confusion.

This provision was also informed by 14 CCR § 1090.7(n)(4).

#### **Adopt § 1094.8(u)(5) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of proposed and existing landings outside the WLPZ that are greater than 1/4 acre in size or whose construction involves substantial excavation shall be mapped, which is necessary to facilitate operations and enforcement.

The Board deemed that it was not necessary to make the term “substantial excavation” more specific based on comment received from CGS and the Department at the 01/26/16 Management Committee meeting. This term is in the existing THP rules, NTMP rules and PTHP rules and no issues on the application of it have been reported to date.

This provision was informed by 14 CCR § 1090.7(n)(5), the comparable provision in the NTMP rules, except that “Location of proposed and existing landings in the watercourse and lake protection zone” was not incorporated to eliminate redundancy because this is required by provision § 1094.8(u)(4)(B).

#### **Adopt § 1094.8(u)(6) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of logging road failures on existing logging roads to be reconstructed shall be mapped, which is necessary to facilitate operations and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(n)(6), the comparable provision in the NTMP rules, except that the Board replaced “road” with “logging road”,

for clarity because “logging road” is a defined term pursuant to 14 CCR § 895.1.

**Adopt § 1094.8(u)(7) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of all new permanent constructed and reconstructed, and temporary logging road watercourse crossings, including those crossings to be abandoned or deactivated shall be mapped, which is necessary to facilitate operations and enforcement.

This provision was informed by 14 CCR § 1090.7(n)(7), the comparable provision in the NTMP rules, which states that the location of all existing and proposed watercourse crossings on logging and tractor roads shall be mapped; if a permanent culvert is involved, its minimum diameter shall be provided. However, this provision was changed for congruency with the Road Rules, adopted in 2014, and is now substantially the same as 14 CCR §§ 1034(x)(6) and 923.9(e), except that the requirement in 14 CCR § 923.9(e), that the Plan specify the minimum diameter of the culvert (if the culvert is intended for permanent use) is in a separate provision in § 1094.8(r), but does not include the requirement that the method(s) used to determine the culvert diameter be provided. This information is required during the development of the WFMP and is specified in 14 CCR § 1090.5(hh).

**Adopt § 1094.8(u)(8) Working Forest Harvest Notice Content**

The proposed adoption specifies that the areas of low, moderate, high or extreme erosion hazard rating, if more than one (1) exists, shall be mapped, which is necessary to facilitate operations and enforcement.

This provision was informed by 14 CCR § 1090.7(n)(8), the comparable provision in the NTMP rules, except that the requirement that low and moderate erosion hazard ratings be mapped was added. The Board deemed that it was necessary to require that this information be mapped for ease of operations and enforcement given that different prescriptive measures are required for different erosion hazard ratings, such as waterbar spacing.

**Adopt § 1094.8(u)(9) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of Lakes and Watercourse(s) with Class I, II, III or IV waters; and Wet Meadows and Other Wet Areas shall be mapped including when operations are proposed pursuant to 14 CCR § 916.3(c), which is necessary to facilitate operations and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(n)(9), the comparable provision in the NTMP rules, except the Board included “Wet Meadows and Other Wet Areas”, a defined term pursuant to 14 CCR § 895.1, which they deemed necessary to facilitate operations and enforcement. The Board also included the requirement that operations proposed pursuant to 14 CCR § 916.3(c) be mapped, which they also deemed necessary to facilitate operations and enforcement.

**Adopt § 1094.8(u)(10) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of known unstable areas or slides shall be mapped, which is necessary to facilitate operations and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(n)(10), the comparable provision in the NTMP rules.

**Adopt § 1094.8(u)(11) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of unique areas shall be mapped, which is necessary to facilitate operations and enforcement.

This provision is substantially the same as 14 CCR § 1090.7(n)(11), the comparable provision in the NTMP rules.

**Adopt § 1094.8(u)(12) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of standard operating practice(s) to be implemented within the area covered under the Working Forest Harvest Notice shall be mapped, which is necessary to facilitate operations and enforcement.

This provision is related to § 1094.6(e)(18), which specifies that the location of standard operating practice(s), pursuant to § 1094.6(jj), do not have to be mapped during WFMP development, however, pursuant to this provision they are required to be mapped in preparation of the WFHN.

The Board recognized that a WFMP, which could comprise up to 15,000 acres, could be very difficult to cover with the necessary intensity to locate every occurrence described in § 1094.6(z) and (cc), which may be numerous. Therefore, the Board offered flexibility during WFMP development pursuant to § 1094.6(e)(18) and § 1094.6(jj). In this provision the Board “closes the loop” requiring the location of standard operating practice(s) be mapped in the preparation of the WFHN.

**Adopt § 1094.8(u)(13) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of logging roads and landings to be abandoned or deactivated shall be mapped, which is necessary to facilitate operations and enforcement.

In spite of the legislative intent for the WFMP to be built upon the model of the NTMP and in spite of § 1094.8(u)(13) not being required to be mapped pursuant to the NTMP Notice of Timber Operations Content rules, for the purposes of congruency with the Road Rules, adopted in 2014, and in response to requests by representatives of CGS and WQ, the Board ultimately decided to include this provision. This is necessary to minimize confusion.

This provision is substantially the same as § 1094.6(e)(11) and was informed by 14 CCR § 1090.5(gg).

**Adopt § 1094.8(u)(14) Working Forest Harvest Notice Content**

The proposed adoption specifies that for all constructed and reconstructed logging roads and landings, the location of excess material disposal sites on slopes greater than 40 percent or on active unstable areas shall be mapped, which is necessary to facilitate operations and enforcement.

In spite of the legislative intent for the WFMP to built upon the model of the NTMP and in spite of § 1094.8(u)(14) not being required to be mapped pursuant to the NTMP Notice of Timber Operations Content rules, for the purposes of congruency with the Road Rules, adopted in 2014, and in response to requests by representatives of CGS and WQ, the Board ultimately decided to include this provision. This is necessary to minimize confusion.

This provision is substantially the same as § 1094.6(e)(16)(D) and 14 CCR § 1034(x)(5)(E).

**Adopt § 1094.8(u)(15) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location of all tractor road watercourse crossings of classified watercourses except temporary crossings of Class III watercourses without flowing water during timber operations at that crossing shall be mapped, which is necessary to facilitate operations and enforcement.

In spite of the legislative intent for the WFMP to built upon the model of the NTMP and in spite of § 1094.8(u)(15) not being required to be mapped pursuant to the NTMP Notice of Timber Operations Content rules, for the purposes of congruency with the Road Rules, adopted in 2014, and in response to requests by representatives of CGS and WQ, the Board ultimately decided to include this provision. This is necessary to minimize confusion.

This provision is substantially the same as 14 CCR § 1034(x)(7).

**Adopt § 1094.8(u)(16) Working Forest Harvest Notice Content**

The proposed adoption specifies that the location for which heavy equipment use is proposed on unstable areas, or on areas for which tractor use is proposed beyond the limitations of the standard forest practice rules shall be mapped, which is necessary to facilitate operations and enforcement.

In spite of the legislative intent for the WFMP to built upon the model of the NTMP and in spite of § 1094.8(u)(16) not being required to be mapped pursuant to the NTMP Notice of Timber Operations Content rules, in response to requests by representatives of CGS and WQ, the Board ultimately decided to include this provision.

This provision is substantially the same as 14 CCR § 1034(x)(15).

**Adopt § 1094.8(v) Working Forest Harvest Notice Content**

The proposed adoption specifies that the WFHN shall contain a copy of the California Forest Practice Rules, or portions thereof, that apply to each filed WFHN, which the Department shall make available.

This provision is necessary for the Working Forest Landowner, RPF, LTO and the Department to have ready access to the provisions of the FPRs, or portions thereof, that apply to each filed WFHN because the WFMP is a long-term permit and the Forest Practice Rules (FPRs) will change over time. A copy of the FPRs in effect at the WFMP approval is also critical in the application of §§ 1094.8(j)(2) and 1094.23(a)(2). Ultimately, this provision is necessary to facilitate operations, compliance and enforcement.

Existing regulation, pursuant to 14 CCR § 1090.5(v) requires the plan submitter to provide a copy of the FPRs at the time of submission of the NTMP. Utilizing the NTMP rules as a model, the Board included this provision in § 1094.6(y), but made the Department, instead of the plan submitter, responsible for this task given that the Department is the repository of the FPRs and it makes sense for the Department to provide this information in lieu of the plan submitter. Additionally, the Board deemed it necessary to require the Department to supply a copy of the current FPRs at the time of WFHN submittal, given the longevity of WFMPs, the dynamic nature of the FPRs, and the potential for the Department to receive many WFHNs over the life of a plan.

#### **Adopt § 1094.8(w) Working Forest Harvest Notice Content**

The proposed adoption specifies that proprietary information shall be treated consistent with PRC § 21160 and GOV § 6254.7.

During development of the proposed regulations, the Board received comment from landowners requesting protection of proprietary information that may be contained within an approved WFMP or that landowners may choose to include as part of a WFHN. This provision is necessary to provide Working Forest Landowners an expectation that proprietary information submitted to the Department will remain confidential. Landowners are specifically sensitive about disclosing growth and yield data to competitors or potential purchasers of their forest products. However, this information is important for the Department to assess compliance. This provision ensures that providing this information will not result in the Working Forest Landowner being placed at a competitive disadvantage in the marketplace.

This provision goes above and beyond the NTMP rules, which do not contain this provision, but that the Board deemed necessary to include in response to the comment received. This provision was informed by PRC § 4597.12(d) and 14 CCR § 1091.4.5(b).

#### **Adopt § 1094.9 WFMP Professional Judgment**

The proposed adoption specifies that where these regulations (§ 1094.8 et seq.) provide for the exercise of professional judgment by the RPF or the Director, if there is a disagreement and if requested by either party, they shall confer on the WFMP area during the WFMP review inspection and reach agreement, if possible, on the conditions and standards to be included in the Plan.

This provision is necessary to facilitate cooperation between the RPF and Director in

order to provide protection to the public trust resource at risk and serve the interests of the Working Forest Landowner. The dynamic nature of timberlands requires that professional judgement be exercised in the design of a WFMP, this provision provides an opportunity for the RPF or Director to discuss why their professional judgement was exercised in a particular way, and a venue to provide for the professional judgement of both parties be included in the final decision.

This provision is substantially the same as 14 CCR § 1090.8, the comparable provision in the NTMP rules.

#### **Adopt § 1094.10 Plan Submitter(s) Responsibility**

The proposed adoption is a preamble that specifies that the plan submitter(s), or successor in interest, shall be responsible for the duties as required in § 1094.10(a)-(l), which is necessary to inform the regulated public of the plan submitter(s) responsibilities.

This provision is substantially the same as 14 CCR § 1090.9, the comparable provision in the NTMP rules.

#### **Adopt § 1094.10(a), (b) and (e)-(i) Plan Submitter(s) Responsibility**

The proposed adoptions specify that the plan submitter shall (a) Ensure that a RPF conducts any activities which require a RPF. (b) Provide the RPF preparing the Plan or deviations with complete and correct information regarding pertinent legal rights to, interests in, and responsibilities for land, timber, and access as these affect the planning and conduct of timber operations. (e) Sign the WFMP certifying knowledge of the Plan contents and the requirements of this section. (f) Within five (5) working days of change in RPF responsibilities for WFMP implementation or substitution of another RPF, file with the Director a minor deviation which states the RPF's name and registration number, address, and subsequent responsibilities for any RPF required field work, preparation of deviations, or operation supervision. (g) Provide a copy of the approved WFMP and Working Forest Harvest Notice to the LTO. (h) Notify (receipt of a burning permit is sufficient notice) the Director prior to commencement of site preparation operations. (i) Provide the RPF preparing the Working Forest Harvest Notice and the LTO each a copy of the current WFMP and subsequent deviation(s).

These provisions are necessary to clearly identify the responsibilities of the plan submitter, which is necessary to facilitate compliance and enforcement. It is incumbent on the plan submitter to provide complete, accurate, and current information to the Department, RPF, and LTO, so all provisions of the approved WFMP, deviations and applicable FPRs are known during implementation of the WFMP.

These provisions are substantially the same as 14 CCR § 1090.9(a)-(g), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP, reference to a notice in 14 CCR § 1090.9(d) was changed to minor deviation in § 1094.10(f) for clarity and the language, "Corporations need not file notification because the RPF of record on each document is the responsible person." in



14 CCR § 1090.9(d) was excluded from the WFMP rules, which the Board deemed unnecessary to include.

#### **Adopt § 1094.10(c) Plan Submitter(s) Responsibility**

The proposed adoptions specify that the plan submitter shall file with the Director a minor deviation identifying a Designated Agent that represents the plan submitter(s) at least five (5) days prior to filing the first Working Forest Harvest Notice, unless already identified in the WFMP.

This provision was developed in consultation with the Department. The Board deemed this provision necessary for the reasons provided in § 1094.2(a), Definition of “Designated Agent”.

#### **Adopt § 1094.10(d) Plan Submitter(s) Responsibility**

The proposed adoption is a preamble that specifies that the plan submitter(s), or successor in interest, shall be responsible for filing with the Director a minor deviation identifying a change in the Designated Agent as required in § 1094.10(d)(1)-(2), which is necessary to inform the regulated public of the plan submitter(s) responsibilities.

This provision was developed in consultation with the Department. The Board deemed this provision necessary for the reasons provided in § 1094.2(a), Definition of “Designated Agent”.

#### **Adopt § 1094.10(d)(1)-(2) Plan Submitter(s) Responsibility**

The proposed adoptions specify that the plan submitter shall be responsible for filing with the Director a minor deviation identifying a change in the Designated Agent within five (5) days if active timber operations are occurring or within thirty (30) days if no active timber operations are occurring.

These provisions were developed in consultation with the Department. The Board deemed these provisions necessary, in part, for the reasons provided in § 1094.2(a), Definition of “Designated Agent”. Additionally, it is necessary for the Department to know of a change in the Designated Agent to enable communication and facilitate compliance and enforcement. The timeliness of this information is essential especially when operations are active because communication between the Department and the Designated Agent may be high, which is why the Board required that this information be conveyed within five (5) days. The reason the Board did not make it less than that was to give time to the landowner(s) participating in the WFMP to identify another entity to fill this position. The Board deemed thirty (30) days adequate when no operations are occurring because communication between the Department and the Designated Agent may be low during this time.

#### **Adopt § 1094.10(j) Plan Submitter(s) Responsibility**

The proposed adoption specifies that the plan submitter shall provide any change(s) in LTO responsibilities to the Director in writing.

This provision was developed in response to the request by the Department to include a requirement that the plan submitter(s) notify the Director of any revisions to LTO responsibility so that the Department could adequately enforce the standards of LTO responsibilities as intended by all parties of interest. Therefore, the Board deemed this provision necessary to facilitate compliance and enforcement.

**Adopt § 1094.10(k) Plan Submitter(s) Responsibility**

The proposed adoption specifies that the plan submitter shall provide the RPF preparing the WFHN and LTO(s) each a copy of the current Lake or Streambed Alteration Agreement, as appropriate, pursuant to Section 1600 et seq. of the Fish and Game Code that covers activities subject to this jurisdiction of activities covered under the WFHN.

This provision was developed in response to a request by the California Department and Fish and Wildlife to include a requirement that the plan submitter(s) provide both the responsible RPF and LTO any relevant approved Streambed Alteration Agreements pursuant to Section 1600 of the Fish and Game Code because it is possible that specific enforceable measures within an approved Section 1600 permit may not be included in an approved WFMP. Therefore, the Board deemed this provision necessary to facilitate compliance and enforcement by assigning responsibility so entities responsible for the implementation of the WFMP have all appropriate documentation.

**Adopt § 1094.10(l) Plan Submitter(s) Responsibility**

The proposed adoption specifies that the plan submitter, or successor(s) in interest, may delegate responsibility for 14 CCR § 1094.10(f) – (k) to the Designated Agent, with written notification to the Director.

This provision was developed in response to a request by the Department and landowner representatives to include the flexibility that would allow the plan submitter(s) to delegate certain responsibilities to an identified Designated Agent. The Board deemed these provisions necessary for the reasons provided in § 1094.2(a), Definition of “Designated Agent”.

**Adopt § 1094.11(a)-(d) Registered Professional Foresters Responsibility**

The proposed adoptions specify (a) Upon submission of a WFMP, the RPF who prepares and signs a Plan is responsible for the accuracy and completeness of its contents. (b) The RPF preparing the Plan shall:(1) Inform the Director and landowner(s) by phone, letter, or email if he or she will be attending the review inspection; and (2) Provide the landowner(s) a copy of the Board rules and regulations in effect on the date of WFMP approval. (c) The RPF preparing the WFHN shall list or describe in the WFHN any work which will be performed by the RPF or the RPF’s Supervised Designee, which may include, but is not limited to, field work in identifying Watercourse and Lake Protection Zones or special treatment areas, marking trees, or other activities and the RPF is only responsible for the activities required of the RPF by the Board rules and regulations and those activities for which he or she is employed. (d) The RPF

preparing the WFHN shall, in writing, inform the plan submitter(s) and Designated Agent of their responsibility pursuant to 14 CCR § 1094.10, for compliance with the requirements of the Act and, where applicable, Board rules and regulations regarding site preparation, stocking, and maintenance of logging roads, landings, and erosion control facilities.

These provisions are necessary to clearly identify the responsibilities of the RPF and the work that will be performed by the RPF, which is necessary to facilitate compliance and enforcement. The Working Forest Landowner can employ any RPF of their choosing for activities that require a RPF, these provisions identify the minimum RPF responsibilities that the Department and Working Forest Landowner can expect.

These provisions are substantially the same as 14 CCR § 1090.10(a)-(d), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP, the option to communicate via email was added to § 1094.11 (b) to reflect the contemporary and ubiquitous use of digital communication between RPFs and the Department, the term “RPF Notice preparer” in 14 CCR § 1090.10(c) was changed to “RPF” in § 1094.11(c) because the Board deemed the provision was clear that the RPF preparing the WFHN is the subject of the provision, “Designated Agent” was added to § 1094.11(d) commensurate with the responsibilities of the “Designated Agent” and the Board replaced “road” with “logging road” for clarity because “logging road” is a defined term pursuant to 14 CCR § 895.1.

#### **Adopt § 1094.11(e) Registered Professional Foresters Responsibility**

The proposed adoption specifies the RPF who prepares the WFMP or prepares the WFHN, or any other RPF who is employed by the owner(s) or operator(s), shall report to the owner or operator if there are deviations from the WFMP that, in the RPF’s judgment, threaten the attainment of the resources conservation standards of the WFMP.

This provision is necessary to identify the person responsible for this disclosure for clarity and accountability. It is also necessary for compliance and enforcement of resource conservation standards, pursuant to the definition of the term in 14 CCR § 895.1 and PRC § 4525.3, which means the minimum acceptable condition resulting from timber operations.

This provision is substantially the same as PRC § 4597.13.

#### **Adopt § 1094.11(f) Registered Professional Foresters Responsibility**

The proposed adoption specifies a RPF(s) retained by the plan submitter(s) to provide professional forestry advice throughout the timber operations shall be present, or ensure that the RPF’s Supervised Designee is present, on the logging area at a sufficient frequency to know the progress of operations and advise the LTO(s) and timberland owner(s), but not less than once during the life of the operations conducted under a Working Forest Harvest Notice(s).

This provision goes above and beyond the NTMP rules, which do not contain this provision, but that the Board deemed necessary to require a minimum threshold of oversight to facilitate compliance and enforcement.

This provision is substantially the same as 14 CCR § 1035.1(e) Registered Professional Foresters Responsibility for Timber Harvest Plans, except “but not less than once during the life of the plan” was replaced with “but not less than once during the life of the operations conducted under a Working Forest Harvest Notice(s)” to make it specific to the WFMP.

**Adopt § 1094.11(g) Registered Professional Foresters Responsibility**

The proposed adoption specifies the RPF shall without delay notify, in writing, the LTO(s), the plan submitter(s), the Designated Agent, and the Department of a decision to withdraw professional services from the Plan.

This provision goes above and beyond the NTMP rules, which do not contain this provision, but that the Board deemed necessary so that all parties of interest involved in an approved WFMP would be apprised of the change in RPF supervision to facilitate compliance and enforcement.

This provision is substantially the same as 14 CCR § 1035.1(g) Registered Professional Foresters Responsibility for Timber Harvest Plans, except “Designated Agent” was added to § 1094.11(g) commensurate with the responsibilities of the “Designated Agent”.

**Adopt § 1094.11(h) Registered Professional Foresters Responsibility**

The proposed adoption specifies all disclosures made between a RPF and an affected party pursuant to this section may be kept confidential.

This provision goes above and beyond the NTMP rules, which do not contain this provision, but that the Board deemed necessary in response to comment from landowner representatives that disclosures between a RPF and owner(s), Designated Agent or LTO(s) should be able to be kept confidential.

This provision is substantially the same as 14 CCR § 1035.1(d) Registered Professional Foresters Responsibility for Timber Harvest Plans and 14 CCR 1092.12(f) Registered Professional Forester Responsibility for PTHPs.

**Adopt § 1094.12(a) Interaction Between RPF and LTO on Working Forest Harvest Notice**

The proposed adoption that specifies from the start of the Working Forest Harvest Notice preparation, but before commencement of operations, the responsible RPF, or Supervised Designee, shall meet with either the LTO or person who is identified in the Working Forest Harvest Notice who will be on the ground and directly responsible for the harvesting operation. It specifies that the meeting shall be on site if requested by either the RPF or LTO and that if any deviation is incorporated into the Working Forest

Harvest Notice by a RPF after the first meeting, that RPF or Supervised Designee shall comply with the intent of this section by explaining relevant changes to the LTO and that if requested by either the RPF or LTO, another on-site meeting shall take place. It also specifies that written documentation of LTO/RPF meetings required under this provision shall be submitted to the Department. Finally the proposed adoption is a preamble that provides a leading statement that the intent of any such meeting is to assure that the LTO is advised as described in § 1094.12(a)(1) and (2).

This provision is necessary because the LTO or other person identified in the Working Forest Harvest Notice that may be responsible for onsite activities, and RPF may be employed separately to perform services to the Working Forest Landowner. The minimum level of interaction between the RPF and persons responsible for onsite activities, required by this provision, facilitates compliance and enforcement.

This provision is substantially the same as 14 CCR § 1090.11, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP, and the requirement that written documentation of LTO/RPF meetings be submitted to the Department was added, which the Board deemed necessary for verification that a minimum level of interaction between the RPF and LTO has taken place and which that Board deemed necessary to facilitate compliance and enforcement.

#### **Adopt § 1094.12(a)(1)-(2) Interaction Between RPF and LTO on Working Forest Harvest Notice**

These provisions specify the intent of the meeting, as described in § 1094.12(a), is to assure that the LTO: (1) Is advised of any sensitive on-site conditions requiring special care during operations. and (2) Is advised regarding the intent and applicable provisions of the approved Working Forest Harvest Notice including deviations.

This provision is necessary because the LTO and RPF may be employed separately to perform services to the Working Forest Landowner. These provisions are necessary to facilitate interaction between the RPF and the LTO and to convey the importance of that interaction to facilitate compliance.

These provisions are substantially the same as 14 CCR § 1090.11(a)-(b), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP.

#### **Adopt § 1094.13 Licensed Timber Operator Responsibilities**

The proposed adoption provides a leading statement that the responsibilities of the Licensed Timber Operator (LTO) shall include those responsibilities as required by § 1094.13(a)-(c), which is necessary to inform the regulated public of the LTO(s) responsibilities.

This provision is substantially the same as 14 CCR § 1090.12, the comparable provision in the NTMP rules.

### **Adopt § 1094.13(a)-(c) Licensed Timber Operator Responsibilities**

These provisions specify that each LTO shall (a) Inform the responsible RPF and plan submitter(s), either in writing or orally, of any site conditions which in the LTO's opinion prevent implementation of the Working Forest Harvest Notice. (b) Keep a copy of the applicable approved Working Forest Harvest Notice and deviations available for reference at the site of active timber operations. and (c) Comply with all provisions of the Act, Board rules and regulations, the applicable Working Forest Harvest Notice and any approved deviations.

The Working Forest Landowner can employ any LTO of their choosing for activities that require a LTO. These provisions are necessary to clearly identify the minimum LTO responsibilities that the Department, Working Forest Landowner, Designated Agent and RPF can expect and which is necessary to facilitate compliance and enforcement. Further, the LTO has the opportunity to see site conditions that were hidden to the RPF as trees are felled and removed and skid trails, landing and roads are opened or constructed. These provisions, which require a minimum level of communication regarding site conditions by the LTO and knowledge of the WFHN area and the rules, also facilitate resource protection

These provisions are substantially the same as 14 CCR § 1090.12(a)-(c), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP.

### **Adopt § 1094.14 Notification of Commencement of Operations**

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

This provision is necessary for the Department to know the timing of operations to facilitate compliance and enforcement.

This provision is substantially the same as 14 CCR § 1090.13, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP, the option to communicate via email was added to § 1094.14 to reflect the contemporary and ubiquitous use of digital communication and the term "Submitter of the Notice, unless the NTMP identifies another person as responsible" in 14 CCR § 1090.13 was changed to "Designated Agent" in § 1094.14 commensurate with the responsibilities of the "Designated Agent".

### **Adopt § 1094.15(a) Notice of WFMP Filing**

The proposed adoption specifies that 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.

This provision is necessary to inform the regulated public and the Department of the Department's responsibility to prepare a notification with specified information to facilitate transparency and communication. Inclusion of the assigned WFMP number allows for comments and communications regarding the contents of the WFMP to be directed to the appropriate WFMP on file.

This provision is substantially the same as 14 CCR § 1090.16(a), the comparable provision in the NTMP rules, except that it has been made specific to the WFMP. This provision was also informed by PRC § 4597.4.

#### **Adopt § 1094.15(b) Notice of WFMP Filing**

The proposed adoption is a preamble that specifies within two (2) working days of the date the Plan is filed, the Director shall transmit copies of the Notice of Filing to the entities as required in § 1094.15(b)(1)-(7), which is necessary to inform the regulated public and the Department of the Department's responsibilities regarding the specifics associated with Notice of Filing distribution to facilitate transparency and communication. The identified minimum distribution locations ensure that the public notice is available in predictable locations accessible to the general public.

This provision is substantially the same as 14 CCR § 1090.16(b), the comparable provision in the NTMP rules. This provision was also informed by PRC § 4597.4.

#### **Adopt § 1094.15(b)(1)-(5) Notice of WFMP Filing**

The proposed adoptions specify 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. and (5) All public agencies having custodial responsibility for lands within 300 ft. of the WFMP boundary.

These provisions are necessary to inform the regulated public and the Department of the Department's responsibilities regarding the specifics associated with Notice of Filing distribution to facilitate transparency and communication. The identified minimum distribution locations ensure that the public notice is available in predictable locations accessible to the general public.

These provisions are substantially the same as 14 CCR § 1090.16(b)(1)-(5), the comparable provisions in the NTMP rules, except that they have been made specific to the WFMP.

#### **Adopt § 1094.15(b)(6)-(7) Notice of WFMP Filing**

The proposed adoptions specify the Director shall transmit copies of the Notice of Filing to (6) The Department's Internet Web site. and (7) To any person who requests notifications in writing.

These provisions are necessary to inform the regulated public and the Department of the Department's responsibilities regarding the specifics associated with Notice of Filing distribution to facilitate transparency and communication. The identified minimum distribution locations ensure that the public notice is available in predictable locations accessible to the general public.

These provisions were informed by PRC § 4597.4.

#### **Adopt § 1094.15(c) Notice of WFMP Filing**

The proposed adoption specifies the Notice of Filing may be transmitted through internet based email.

This provision was developed to provide the Department with the flexibility for the Notice of Filing to be transmitted via internet based email in lieu of regular mail, which is intended to increase efficiency for Department staff when processing a Notice of Filing.

This provision was informed by PRC § 4597.4 and developed through consultation with the Department.

#### **Adopt § 1094.16(a) Agency and Public Review of the WFMP**

The proposed adoption specifies that upon receipt of the proposed WFMP, the Department shall place the proposed Plan, or a true copy of the proposed Plan, in a location available for public inspection in the county in which timber operations are proposed under the Plan or on the Department's Internet Web site. It also specifies that for the purpose of interdisciplinary review, the Department shall also transmit a copy to the Department of Conservation, the Department of Fish and Wildlife, the appropriate California Regional Water Quality Control Board, the county planning agency, and all other agencies having jurisdiction by law over natural resources affected by the Plan. Finally, it specifies that the Department shall invite, consider, and respond in writing to comments received from public agencies to which the Plan has been transmitted and shall consult with those agencies at their request.

This provision is necessary to establish the process that results in the proposed WFMP being made available to the interdisciplinary review team and public and identifies that the Department is responsible for making it available, which is necessary for clarity and to facilitate interdisciplinary and public review. This provision is also necessary to establish the Department's responsibility regarding interdisciplinary review team comments, which is necessary to give importance to them commensurate with the public trust responsibilities of the interdisciplinary review team. This provision also provides flexibility to the Department, pursuant to PRC § 4597.5, for the WFMP to be posted on the Department's Internet Web site in lieu of a hard copy being placed in the county in which timber operations are proposed under the Plan, which is intended to increase efficiency for Department staff.

This provision is substantially the same as PRC § 4597.5 and was informed by 14 CCR



§ 1090.17(a), the comparable provision in the NTMP rules.

**Adopt § 1094.16(b)-(c) Agency and Public Review of the WFMP**

The proposed adoptions specify that the Director shall also transmit a copy of any specific Plan to any person who has made a written request therefore and that the Department shall bill such persons for the cost of providing such copies and such monies shall be paid to the Department.

This provision is necessary to further establish the process that results in the proposed WFMP being made available to interested persons, which is necessary to facilitate review. This provision also establishes that the Department bill for such copies, which is necessary to reimburse the Department for the cost of copies.

This provision is substantially the same as 14 CCR § 1090.17(b) and (c), the comparable provisions in the NTMP rules.

**Adopt § 1094.16(d) Agency and Public Review of the WFMP**

The proposed adoption is a preamble that the Director shall take the steps as required in § 1094.16(d)(1)-(6) when Significant New Information, as defined in 14 CCR § 895.1, is added to the Plan during the course of Plan review or during the Director's Determination period,

This provision is necessary to establish the process that results in Significant New Information, added to the proposed WFMP, being made available to the review team members, entities that provided comment and landowners who received a Notice of Preparation and identifies that the Department is responsible for making it available, which is necessary for clarity and to facilitate review. This provision is also necessary to establish the Department's responsibility regarding comments, which is necessary for clarity and to facilitate review.

This provision is substantially the same as 14 CCR § 1090.17(f), the comparable provision in the NTMP rules.

**Adopt § 1094.16(d)(1)-(2) Agency and Public Review of the WFMP**

The proposed adoptions specify that when Significant New Information are limited to a few sections or portions of the Plan, the Department need only recirculate the sections or portions that have been modified. In contrast, when Significant New Information are not limited to a few sections of the Plan, the Department shall recirculate the entire Plan.

These provisions are necessary to establish the process that results in Significant New Information, added to the proposed WFMP, being made available through recirculation and identifies that the Department is responsible for making it available, which is necessary for clarity and to facilitate review. These provisions are also necessary to support efficiency and diligence by limiting the content of the recirculation to the sections or portions that have been modified when Significant New Information are

limited to a few sections or portions of the Plan, and on the other hand, when Significant New Information is not limited to a few sections of the Plan, expanding the content of the recirculation to the entire Plan.

These provisions are substantially the same as 14 CCR § 1090.17(f)(1)-(2), the comparable provisions in the NTMP rules, except that “significant changes” was replaced with the defined term “Significant New Information”, which the Board deemed necessary for clarity.

**Adopt § 1094.16(d)(3) Agency and Public Review of the WFMP**

The proposed adoption specifies that the Department shall prepare a Letter of Recirculation which shall include the information as required in § 1094.16(d)(3)(A)–(F).

This provision is necessary to further establish the process that results in Significant New Information, added to the proposed WFMP, being made available through recirculation and identifies that the Department is responsible for making it available, which is necessary for clarity and to facilitate review.

This provision is substantially the same as 14 CCR § 1090.17(f)(3), the comparable provision in the NTMP rules.

**Adopt § 1094.16(d)(3)(A) Agency and Public Review of the WFMP**

The proposed adoption specifies that the Department shall prepare a Letter of Recirculation which shall include a brief description of the proposed project and its location, which shall include the information as required in § 1094.16(d)(3)(A)1.–6.

This provision is necessary to further establish the process that results in Significant New Information, added to the proposed WFMP, being made available through recirculation and identifies that the Department is responsible for making it available, which is necessary for clarity and to facilitate review.

This provision is substantially the same as 14 CCR § 1090.17(f)(3)(A), the comparable provision in the NTMP rules.

**Adopt § 1094.16(d)(3)(A)1.-6. Agency and Public Review of the WFMP**

The proposed adoptions specify that the Department shall prepare a Letter of Recirculation which shall include a brief description of the proposed project and its location, which shall include 1. The Plan number and county(s). 2. The names of the timberland owner(s) and the plan submitter(s). 3. The location of the Plan area by county, section, township, and range. 4. The name of the nearest major watercourse or CALWATER v2.2 ID. 5. The acres proposed to be harvested. and 6. The silvicultural systems to be used.

These provisions are necessary to further establish the process that results in Significant New Information, added to the proposed WFMP, being made available through recirculation and identifies that the Department is responsible for making it

available, which is necessary for clarity and to facilitate review. Specifically, these provisions are necessary to provide an adequate amount of background information to further facilitate review.

These provisions are substantially the same as 14 CCR § 1090.17(f)(3)(A)1.-6., the comparable provisions in the NTMP rules, except that “CAL Watershed ID” was made specific to CALWATER v2.2 ID, which is the current version of CALWATER.

**Adopt § 1094.16(d)(3)(B)-(F) Agency and Public Review of the WFMP**

The proposed adoptions specify that the Department shall prepare a Letter of Recirculation which shall include (B) A summary of changes made to the Plan and a brief description of significant new information contained in the Plan. (C) Clarification as to whether the entire Plan, or only those recirculated portions of the Plan, are open for public comment. (D) The starting and ending dates for the review period, which will be a minimum of 30 days, during which public comments will be received. (E) The date, time, and place of any scheduled public meetings when known by the lead agency at the time of notice. and (F) The address where copies of the Plan record are available for public review.

These provisions are necessary to further establish the process that results in Significant New Information, added to the proposed WFMP, being made available through recirculation and identifies that the Department is responsible for making it available, which is necessary for clarity and to facilitate review.

These provisions are substantially the same as 14 CCR § 1090.17(f)(3)(B)-(F), the comparable provisions in the NTMP rules.

**Adopt § 1094.16(d)(4) Agency and Public Review of the WFMP**

The proposed adoption specifies the Letter of Recirculation shall be sent to: all review team members; any agency, person, or organization that commented on the Plan; and all landowners who received a Notice of Preparation.

This provision is necessary to further establish the process that results in Significant New Information, added to the proposed WFMP, being made available, through recirculation, to the identified entities, which is necessary for clarity and to facilitate review.

This provision is substantially the same as 14 CCR § 1090.17(f)(4), the comparable provision in the NTMP rules.

**Adopt § 1094.16(d)(5) Agency and Public Review of the WFMP**

The proposed adoption is a preamble specifies the Department need only respond to comments received pursuant to 1094.16(d)(5)(A)-(B).

This provision is necessary to establish the Department’s responsibility regarding comments, which is necessary for clarity and transparency. The inclusion of sideboards

on the comments to which the Department must respond is necessary for efficiency.

This provision is substantially the same as 14 CCR § 1090.17(f)(5), the comparable provision in the NTMP rules.

**Adopt § 1094.16(d)(5)(A)-(B) Agency and Public Review of the WFMP**

The proposed adoptions specify the Department need only respond to: (A) Comments received during the initial circulation period that relate to sections or portions of the Plan that were not revised and recirculated, and (B) Comments received during the recirculation period that relate to the sections or portions of the Plan that were revised and recirculated.

These provisions are necessary to establish the Department's responsibility regarding comments, which is necessary for clarity and transparency. The inclusion of sideboards on the comments to which the Department must respond is necessary for efficiency.

These provisions are substantially the same as 14 CCR § 1090.17(f)(5)(A)-(B), the comparable provision in the NTMP rules.

**Adopt § 1094.16(d)(6) Agency and Public Review of the WFMP**

The proposed adoption specifies the Department shall include with the Notice of Filing, a Notice of Recirculation pursuant to 14 CCR § 1032.9.

This provision is necessary to further establish the process that results in the Notice of Recirculation being made available and identifies the Department as responsible for making it available which is necessary for clarity, transparency and to facilitate review.

This provision is substantially the same as 14 CCR § 1090.17(f)(6), the comparable provision in the NTMP rules, except "Notice of Submissions" was replaced with "Notice of Filing" to make it commensurate with the term used in § 1094.15 Notice of WFMP Filing. The term "Notice of Submissions" is equivalent to the term "Notice of Filing".

**Adopt § 1094.17(a) Director's Determination**

The proposed adoption is a preamble that specifies that the Department shall provide a minimum time period for public comment, starting from the date of the receipt of a WFMP, as required by § 1094.17(a)(1)-(3).

This provision is necessary to establish the process leading to the Director's Determination, including the minimum number of days the WFMP will be open for public comment. This provision is necessary for transparency, clarity and to facilitate review and comment.

This provision is substantially the same as PRC § 4597.6(a), except the qualifier "minimum" was added to account for the possibility that the public comment period may be extended for a number of reasons including the inclusion of Significant New Information or as proposed in § 1094.17(b)(4).

### **Adopt § 1094.17(a)(1)-(3) Director's Determination**

The proposed adoptions specify the Department shall provide the following minimum time periods for public comment based on acreage (1) Ninety (90) days for a WFMP for less than 5,000 acres. (2) One hundred ten (110) days for a WFMP for between 5,000 and less than 10,000 acres. and (3) One hundred thirty days (130) for a WFMP for between 10,000 and 15,000 acres.

These provisions are necessary to establish the process leading to the Director's Determination, including the minimum number of days the WFMP will be open for public comment. The time periods specified account for the potential complexity of the WFMP and increases in 3 steps based on acreage and were established to give the public adequate time to evaluate the contents of the proposed WFMP and provide comment if they should so choose. These provisions are necessary for transparency, clarity and to facilitate review and comment.

These provisions are substantially the same as PRC § 4597.6(a)(1)-(3).

### **Adopt § 1094.17(b) Director's Determination**

The proposed adoption is a preamble that specifies before a WFMP may be approved all of the requirements specified in § 1094.17(b)(1)-(5) shall be met.

These provisions are necessary to establish the process leading to the Director's Determination, including the timelines associated with filing, initial inspection and final interagency review. These provisions are necessary for transparency, clarity and to facilitate review and comment.

This provision is substantially the same as PRC § 4597.6(b).

### **Adopt § 1094.17(b)(1)-(5) Director's Determination**

The proposed adoptions specify that before a WFMP may be approved (1) Within thirty (30) working days of the receipt of a WFMP, or within forty (40) working days of the receipt of a Plan to which a Road Management Plan (pursuant to 14 CCR § 1093) is appended, the Department shall determine if the Plan is accurate, complete, and in proper order, and if so, the Plan shall be filed and that an unfiled Plan shall be returned to the plan submitter(s) with an explanation that includes provisions for resubmitting the Plan. (2) The initial inspection shall be initiated within twenty (20) working days from the date of filing of the WFMP, and completed no more than thirty (30) working days from the date of filing. (3) Upon completion of the initial inspection, the Department shall have up to forty five (45) working days to conduct the final interagency review of the Plan. (4) The public comment period shall end twenty (20) working days after the completion of the final interagency review of the Plan or until the requirement in subsection (a) is met, whichever is greater. (5) After the final interagency review and public comment period has ended, the Department shall have up to thirty (30) working days to review the public input, to consider recommendations and mitigation measures of other agencies, to respond in writing to the issues raised, and to determine if the Plan is in conformance

with the applicable Board rules and regulations and other applicable provisions of law.

These provisions are necessary to establish the process leading to the Director's Determination, including the timelines associated with filing, initial inspection and final interagency review. These provisions are necessary for transparency, clarity and to facilitate review and comment. These timelines provide qualified certainty to the plan submitter that the Department will respond to their request for review of the WFMP in a timely manner.

These provisions are substantially the same as PRC § 4597.6(b)(1)-(5). These provisions were also informed by 14 CCR §§ 1090.17(d) and 1090.18.

#### **Adopt § 1094.17(c) Director's Determination**

The proposed adoption specifies that if after final interagency review the Director determines that the Plan is not in conformance with the Board rules and regulations or the FPA, the Director shall deny and return the Plan, stating the reasons for the denial and advising the plan submitter of the person's right to a hearing before the Board.

This provision is necessary to establish the process if the Director determines that the Plan is not in conformance, including advising the plan submitter of the right to a hearing before the Board. This provision is necessary for transparency, clarity and to facilitate recourse.

This provision is substantially the same as PRC § 4597.6(c). This provision was also informed by 14 CCR § 1090.20 Nonconformance of NTMP.

#### **Adopt § 1094.17(d) Director's Determination**

The proposed adoption specifies that if the Director does not act within the time periods provided in § 1094.17(b), the Director and the Working Forest Landowner(s) submitting the WFMP shall negotiate and mutually agree upon a longer period for the Director to review the Plan. If a longer period cannot be mutually agreed upon, the WFMP shall be deemed denied and returned to the Working Forest Landowner(s) submitting the Plan.

This provision is necessary to establish the process to develop mutually agreed upon extensions when the timelines established in § 1094.17(b) cannot be met and in lieu of the denial and return of the WFMP. WFMPs will be large, and may be complex and special circumstances may warrant extension of review timelines. This provision is necessary for transparency, clarity and to facilitate flexibility in the process.

This provision is substantially the same as PRC § 4597.6(d). This provision was also informed by 14 CCR § 1090.18.

#### **Adopt § 1094.17(e) Director's Determination**

The proposed adoption is a preamble that specifies the provisions specified in § 1094.17(e)(1)-(4) apply to the appeal of a denied WFMP.

This provision is necessary to provide introduction to the provisions that follow for the purpose of clarity.

**Adopt § 1094.17(e)(1)-(4) Director's Determination**

The proposed adoptions specify: (1) A Working Forest Landowner(s) whose Plan is denied pursuant to 14 CCR §§ 1094.17(c) or 1094.17(d) may request, within thirty (30) working days from the receipt of the Plan, a public hearing before the Board and that the Board shall schedule a public hearing to review the Plan to determine if the Plan is in conformance with the Board rules and regulations and the FPA. (2) Board action shall take place within thirty (30) working days from the filing of the appeal, or a longer period mutually agreed upon by the Board and the person filing the appeal. (3) If the Director's decision to deny the Plan is overturned by the Board, the Board shall prepare findings and its rationale for overturning the decision, and return the Plan to the Department for approval by the Director. (4) If the Plan is not approved on appeal to the Board, the Director, within ten (10) working days of Board action, shall advise the plan submitter(s) regarding changes needed that would achieve compliance with the FPA and other applicable provisions of the law. It further specifies that the Plan submitter(s) shall have forty five (45) working days from the date of the notification letter, or longer if mutually agreeable to the Department and the plan submitter(s), to revise the Plan to bring it into full conformance with the Board rules and regulations and the FPA and that upon receipt of the information requested of the plan submitter(s), the Department shall recirculate the Plan and reopen the public comment period for thirty (30) working days. Finally, the proposed adoptions specify that prior to determining whether to approve the proposed revised Plan, the Director shall have thirty (30) working days to review public input and consider recommendations and mitigation measures of other agencies, and to respond in writing to issues raised.

These provisions are necessary to establish an appeals process when a WFMP is denied and functions as a check and balance in the process. The layer of Board governance in the process facilitates the prevention of WFMPs being denied arbitrarily or capriciously. These provisions are necessary for transparency, clarity and to facilitate recourse.

These provisions are substantially the same as PRC § 4597.6(e)(1)-(4).

**Adopt § 1094.18 Review Teams to be Established to Review WFMP**

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

This provision is necessary because numerous agencies in California's government have jurisdiction over public trust resources that may be impacted by timber operations. Each agency brings expertise on the resource under their jurisdiction to ensure a complete review of the WFMP. This process also brings a level of efficiency to the

permitting process as most timber management activities also require separate permits from the California Department of Fish and Wildlife and a Regional Water Quality Control Board. In most instances, the environmental review by this interdisciplinary review team provides the California Environmental Quality Act (CEQA) coverage for these additional permits.

This provision is substantially the same as 14 CCR § 1090.19, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP.

#### **Adopt § 1094.19 Nonconformance of WFMP**

The proposed adoption specifies that if the Director determines that a Plan is not in conformance with the Board rules and regulations, the Plan shall be returned in accordance with 14 CCR § 1054. In addition it specifies that the Director shall state any changes and reasonable conditions that in the Director's professional judgment are needed to bring the Plan into conformance with the applicable Board rules and regulations and offer to confer with the RPF in order to reach agreement on the conditions necessary to bring the Plan into conformance.

This provision is necessary to further establish the process (first described in § 1094.17(c)-(d)) if the Director determines that the Plan is not in conformance. This provision is necessary for transparency, clarity and to facilitate a constructive path for the RPF to bring the Plan into conformance.

This provision is substantially the same as 14 CCR § 1090.20, the comparable provision in the NTMP rules, and was informed by PRC § 4597.6(c).

#### **Adopt § 1094.20 Conformance of WFMP**

The proposed adoption specifies that if the Director determines that the Plan is in conformance with Board rules and regulations, then the person submitting the Plan shall be notified timber operations thereunder may only commence after submission of a Working Forest Harvest Notice as prescribed in 14 CCR § 1094.7.

This provision is necessary to establish the process after the Director's Determination of conformance to facilitate the implementation the WFMP, which is necessary for transparency and clarity.

This provision is substantially the same as 14 CCR § 1090.21, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP.

#### **Adopt § 1094.21 Notice of Conformance of WFMP**

The proposed adoption specifies that within ten (10) working days of the date a Plan is found in conformance, the Director shall transmit a notice thereof to the agencies and persons referred to in § 1094.16 and for posting at the places named in § 1094.15. It also specifies that a copy of the notice shall be filed with the Secretary of the Natural Resources Agency. Finally it specifies that the Notice of Conformance shall include a written response of the Director to significant environmental points raised during the



evaluation process.

This provision is necessary to further establish the process after the Director's Determination of conformance and requires the Director to inform, in a timely manner, entities, including the public and review team, of WFMP approval and the rationale the Director used to reject significant environmental points raised during the evaluation process. This provision is necessary to facilitate access and for transparency and clarity.

This provision is substantially the same as 14 CCR § 1090.22, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP.

#### **Adopt 14 CCR § 1094.22 Public Inspection**

The proposed adoption specifies that Notices of Conformance, pursuant to 14 CCR § 1094.21 and notices of nonconformance, pursuant to 14 CCR § 1054, shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the Office of the Natural Resources Agency. Each such list shall remain posted for a period of thirty (30) days.

This provision is necessary to further establish the process after the Director's Determination of conformance and requires that the Notice of Conformance be made available in an additional location for a specified period of time. This provision is necessary to facilitate access and for transparency and clarity.

This provision is substantially the same as 14 CCR § 1090.23, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP and "notices of approval by the Board, pursuant to 14 CCR 1054" was replaced with "notices of nonconformance, pursuant to 14 CCR § 1054" because 14 CCR § 1054 concerns when the Director determines that a plan is not in conformance.

#### **Adopt § 1094.23(a) Substantial Deviations**

The proposed adoption is a preamble that specifies that the Designated Agent may submit a proposed deviation, as prepared by the RPF, to the approved Plan. It also specifies that no action shall occur that substantially deviates, as defined by the Board, from the approved Plan until the substantial deviation has been approved by the Director. Finally, this provision provides a leading statement that the Director shall determine approval, after completion of the interagency review and public comment period, based on one of the two conditions specified in § 1094.23(a)(1)-(2).

This provision is necessary to establish the process of incorporating a substantial deviation after the WFMP has been approved. This provision is necessary for transparency, clarity and to facilitate review.

This provision is substantially the same as PRC § 4597.7 except:

- "working forest landowner" was replaced with "Designated Agent" commensurate with the responsibilities of the "Designated Agent"

- “as prepared by the RPF” was added to qualify “a proposed deviation” for clarity
- the provision that “until the substantial deviation has been approved by the Director”, was added to qualify “no action shall occur that substantially deviates, as defined by the Board, from the approved Plan” for clarity

This provision was also informed by 14 CCR § 1090.24.

### **Adopt § 1094.23(a)(1)-(2) Substantial Deviations**

The proposed adoptions specify that the Director shall determine approval, after completion of the interagency review and public comment period, based on the condition that the (1) The substantial deviation is in compliance with the current Board rules and regulations and provisions in the FPA. or (2) The substantial deviation is in compliance with the Board rules and regulations and provisions in the FPA that were in effect at the time the WFMP was approved, but the Director may only make this determination if a RPF explains, justifies, and certifies both of the conditions specified in § 1094.23(a)(2)(A)-(B):

These provisions are necessary to establish the process of incorporating a substantial deviation after the WFMP has been approved, including the conditions of approval. This provision is necessary for transparency, clarity and to facilitate review.

These provisions are substantially the same as PRC § 4597.7(a)-(b), except “amendment” was replaced with “substantial deviation” for additional specificity.

### **Adopt § 1094.23(a)(2)(A)-(B) Substantial Deviations**

The proposed adoptions specify that the Director shall determine approval, after completion of the interagency review and public comment period, based on one of two condition, including that the substantial deviation is in compliance with the Board rules and regulations and provisions in the FPA that were in effect at the time the WFMP was approved, but the Director may only make this determination if a RPF explains, justifies, and certifies that (A)The adherence to new or modified Board rules and regulations would cause unreasonable additional expense, pursuant to PRC § 4583, to the Working Forest Landowner(s). and (B)Compliance with the Board rules and regulations and provisions in the FPA that were in effect at the time the WFMP was approved will not result in any significant degradation to the beneficial uses of water, soil stability, forest productivity, or wildlife.

These provisions are necessary to establish the process of incorporating a substantial deviation after the WFMP has been approved, including requiring that the RPF provide an elevated burden of proof if they propose to use the rules in effect at the time of WFMP approval in lieu of the current rules. This provision is necessary for transparency, clarity and to facilitate review.

These provisions are substantially the same as PRC § 4597.7(b)(1)-(2), except “pursuant to PRC § 4583” was added to provide reference to the meaning of “unreasonable additional expense”.

### **Adopt § 1094.23(b) Substantial Deviations**

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

This provision is necessary to establish the process of incorporating a substantial deviation after the WFMP has been approved, including review timelines commensurate with the scale of the addition of acreage. These time periods were established to give the public and review team adequate time to evaluate the contents of the substantial deviation and provide comment if they should so choose. This provision is necessary for transparency, clarity and to facilitate review and comment.

This provision is substantially the same as PRC § 4597.7(c), except “amendment” was replaced with “substantial deviation” for additional specificity.

### **Adopt § 1094.23(c) Substantial Deviations**

The proposed adoption specifies changes are presumed to be substantial deviations if they could have a significant effect on the conduct of timber operations and potentially could have a significant adverse effect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment. Finally, this provision provides a leading statement that such actions may include, but are not limited to the circumstances provided in § 1094.23(c)(1)-(14).

The list of circumstances provided in § 1094.23(c)(1)-(14) are called out because they could have a significant effect on the conduct of timber operations and potentially could have a significant adverse effect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment. The terms “significant effect on the conduct of timber operations” and “significant adverse effect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment” are used in the definition of Substantial Deviation (14 CCR § 895.1), in the NTMP rules 14 CCR § 1090.14(b), and in the PTHP rules (14 CCR § 1092.26) and are understood and no issues on the application of these terms have been reported to date.

The Board deemed it necessary to restate the meaning of Substantial Deviation to clarify which circumstances associated with a WFMP may be considered a Substantial Deviation.

This provision is substantially the same as 14 CCR § 1090.14(b), the comparable provision in the NTMP rules.

### **Adopt § 1094.23(c)(1)-(2) Substantial Deviations**

The proposed adoptions specify that circumstances that may constitute a substantial

deviation include (1) Change in location of timber harvesting operations within the WFMP area. and (2) Enlargement of the WFMP area.

These provisions are necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

These provisions are substantially the same as 1090.14(b)(1), the comparable provision in the NTMP rules.

#### **Adopt § 1094.23(c)(3) Substantial Deviations**

The proposed adoption specifies that circumstances that may constitute a substantial deviation include an increase in volume to be harvested exceeding ten (10) percent as projected by the LTSY.

Based on comment provided by the Department, the Board deemed an increase in harvest volume exceeding 10 percent (as projected by the LTSY) to be a sufficient variance to identify it as a circumstance that may constitute a Substantial Deviation. The review associated with a substantial deviation would facilitate the evaluation of significant adverse effect on timber productivity. This provision is necessary for transparency, clarity, efficiency and to facilitate review.

#### **Adopt § 1094.23(c)(4)-(5) Substantial Deviations**

The proposed adoptions specify that circumstances that may constitute a substantial deviation include (4) Change in the silvicultural method and cutting system on any portion of the Plan area. and (5) Change in type or location of logging (yarding) system or basic type of equipment.

These provisions are necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

These provisions are substantially the same as 1090.14(b)(2)-(3), the comparable provisions in the NTMP rules.

#### **Adopt § 1094.23(c)(6) Substantial Deviations**

The proposed adoption is a preamble that specifies that circumstances that may constitute a substantial deviation include change in location, nature or increase in length of proposed logging roads incorporating one or more of the criteria in §1094.23(c)(6)(A)-(E).

This provision is necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

This provision is substantially the same as 1090.14(b)(4), the comparable provision in

the NTMP rules.

**Adopt § 1094.23(c)(6)(A)-(E) Substantial Deviations**

The proposed adoptions specify that circumstances that may constitute a substantial deviation include change in location, nature or increase in length of proposed logging roads incorporating one or more of the criteria in (A) Any logging road in a Watercourse or Lake Protection Zone or where sidecast will extend into the Watercourse or Lake Protection Zone. (B) Any logging road located in an extreme Erosion Hazard Rating area. (C) Any logging road where the average side slope exceeds fifty (50)%. (D) Any logging road where unstable areas, active soil movement, or slide areas must be traversed. (E) Any increase in gradient allowed by the District Rules as an exception and not provided for in the original Plan.

These provisions are necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

These provisions are substantially the same as 1090.14(b)(4)(A)-(E), the comparable provisions in the NTMP rules, except the Board replaced “road” with “logging road” for clarity because “logging road” is a defined term pursuant to 14 CCR § 895.1.

**Adopt § 1094.23(c)(7) Substantial Deviations**

The proposed adoption specifies that circumstances that may constitute a substantial deviation include any road extension of more than six hundred (600) ft. (182.9m).

This provision is necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

This provision is substantially the same as 1090.14(b)(4)(F), the comparable provision in the NTMP rules.

**Adopt § 1094.23(c)(8) Substantial Deviations**

The proposed adoption specifies that circumstances that may constitute a substantial deviation include any use of existing roads not shown in the original Plan when reconstruction work to allow for vehicle travel will be substantial. It further specifies that substantial work on an existing road means more than minor repair and dressing of the travel surface and removal of vegetation to allow for vehicle passage.

This provision is necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

This provision is substantially the same as 1090.14(b)(5), the comparable provision in the NTMP rules.

### **Adopt § 1094.23(c)(9) Substantial Deviations**

The proposed adoption specifies that circumstances that may constitute a substantial deviation include use of any logging roads not shown in the Plan which would affect the key habitat, not previously discussed in the Plan, of: state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d).

This provision is necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

The term “key habitat” is in the existing NTMP rules and no issues on the application of it have been reported to date.

This provision is substantially the same as 1090.14(b)(6), the comparable provision in the NTMP rules, except that “the key habitat of rare or endangered species” was replaced with “key habitat, not previously discussed in the Plan, of: state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d)”, which the Board deemed necessary for clarity and was developed in conjunction with the California Department of Fish and Wildlife (CDFW). Also, “or other critical wildlife habitat” was excluded from this provision given the clarity provided by the aforementioned revision.

### **Adopt § 1094.23(c)(10)-(13) Substantial Deviations**

The proposed adoptions specify that circumstances that may constitute a substantial deviation include (10) Enlargement of landings where such enlargement was not justified in the Plan. (11) Any change of operation within, or designation of, Watercourse or Lake Protection Zones. (12) Any downgrading of watercourse classification. and (13) A change to winter operations where summer operations were previously specified.

These provisions are necessary to identify circumstances associated with a WFMP that may constitute a Substantial Deviation, which is necessary for transparency, clarity, efficiency and to facilitate review.

These provisions are substantially the same as 1090.14(b)(7)-(10), the comparable provisions in the NTMP rules.

### **Adopt 14 CCR § 1094.23(c)(14) Substantial Deviations**

The proposed adoption specifies that changes to the erosion control implementation plan as a result of operations to implement the provisions of the approved erosion control implementation plan shall not be considered a substantial deviation.

The Board excluded these circumstances from being considered a Substantial Deviation based on comment provided from landowner representatives and the Department. The Board deemed this provision necessary to support a process where

upgrading of infrastructure located within an approved WFMP can be documented within a updated erosion control implementation plan with minimal effort from the RPF and minimal cost to the Working Forest Landowner(s).

#### **Adopt § 1094.24(a) Report of Minor Deviations**

The proposed adoption specifies that “Minor deviations” means any change, minor in scope, in a Plan which can reasonably be presumed not to make a significant change in the conduct of timber operations and which can reasonably be expected not to significantly adversely affect timberland productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment or to result in a violation of the applicable water quality control plan.

The terms “significant change in the conduct of timber operations” and “which can reasonably be expected not to significantly adversely affect timberland productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment or to result in a violation of the applicable water quality control plan” are used in the NTMP rules in 14 CCR § 1090.14(a) and, in part, in the definition of Minor Deviations (14 CCR § 895.1) and are understood and no issues on the application of these terms have been reported to date.

During the development of this provision the North Coast Regional Water Quality Control Board reinforced that only deviations that would not result in a violation of the applicable water quality control plan could be considered minor.

The Board deemed it necessary to restate the meaning of Minor Deviation to have all related information in one place so that the burden of having to reference other portions of the Forest Practice Rules very much is not placed on the regulated public

This provision is necessary to identify the threshold below which changes to the Plan shall be considered minor, which is necessary for transparency, clarity, efficiency and to facilitate review.

This provision is substantially the same as 14 CCR § 1090.14(a), the comparable provision in the NTMP rules, and was informed by PRC § 4597.8.

#### **Adopt § 1094.24(b) Report of Minor Deviations**

The proposed adoption specifies Minor deviations may be undertaken by the person who submitted the WFMP or Working Forest Harvest Notice without submission of a minor deviation to the Plan and shall be reported immediately in writing to the Director. It further specifies that actions described in 14 CCR § 1094.23 which are normally presumed to be substantial deviations may, in a given instance, be a minor deviation and that such actions listed as substantial deviations in 14 CCR § 1094.23, but considered to be minor deviation by the submitter(s), may be undertaken only if the person who submitted the Plan or the Designated Agent submits the proposed deviation in writing to the Director for review and receives approval and that such approval shall be given if the Director determines that the proposed minor deviation conforms to the

standards provided in 14 CCR § 1094.24(a). Finally it specifies that the Director shall have five (5) working days to act on the application and that if the Director or the representative of the Director does not act within five (5) working days of receipt of such a deviation, timber operations may commence pursuant to such minor deviation.

This provision is necessary to establish the process associated with the report of Minor Deviations, which is necessary for transparency, clarity, efficiency and to facilitate review.

This provision is substantially the same as 14 CCR § 1090.25, the comparable provision in the NTMP rules, except that it has been made specific to the WFMP, “amendment” was replaced with “minor deviation” for clarity, and “Designated Agent” was added commensurate with the responsibilities of the “Designated Agent”. This provision was also informed by PRC § 4597.8.

#### **Adopt § 1094.24(c) Report of Minor Deviations**

The proposed adoption specifies that newly adopted Board rules or regulations may be incorporated into an approved WFMP through a minor deviation.

This provision was developed based on comment provided from landowner representatives and the Department. The Board deemed this provision necessary to support a process where the incorporation of newly approved Board rules and regulations, into an approved WFMP, if found necessary, can be done with minimal effort from the RPF and minimal cost to the Working Forest Landowner(s).

#### **Adopt § 1094.25(a)-(b) Report of Completion of Work Described in WFMP; Partial Completion Report**

The proposed adoptions specify that (a) Within one (1) month after completion of the work described in the Working Forest Harvest Notice, excluding work for stocking, site preparation, or maintenance of drainage facilities and soil stabilization treatments on skid trails, roads, and landings after the Plan period, a report shall be filed by the timber owner(s) or the Designated Agent with the Department that all work, except stocking, site preparation, or maintenance of drainage facilities and soil stabilization treatments, has been completed. (b) If all of the work described in the Plan has not been completed, a report may be filed annually with respect to a portion of the area covered by the Plan which has been completed.

These provisions are necessary to reinforce the process by which the Department is notified when work is complete so the Department may conduct inspections to determine if operations were conducted in compliance with the WFMP and applicable FPRs.

This provision is substantially the same as PRC § 4585(a)-(b), except that it has been made specific to the WFMP and “owner’s agent” was replaced with “Designated Agent” commensurate with the responsibilities of the “Designated Agent”.

PRC § 4585(a)-(b) applies to WFMPs, pursuant to the amended definition of “Plan”,



however the Department requested it be duplicated in the WFMP rules, which the Board deemed necessary for reinforcement and to have all related information in one place so that the burden of having to reference statute very much is not placed on the regulated public.

### **Adopt § 1094.25(c)(1) –(3) Report of Completion of Work Described in WFMP; Partial Completion Report**

The proposed adoptions specify that the report filed by the timber owner(s) or the Designated Agent shall also include (1) acres harvested. (2) a map of the operating area. (3) the volume harvested in relation to the projection in the WFMP. and (4) proprietary information shall be treated consistent with PRC § 21160 and GOV § 6254.7.

These provisions are necessary to reinforce the process by which the Department is notified when work is complete so the Department may conduct inspections to determine if operations were conducted in compliance with the WFMP and applicable FPRs. Additionally, these required data will facilitate the Department in the preparation of a plan summary, as required in 1094.29(b).

During development of the proposed regulations, the Board received comment from landowners requesting protection of proprietary information that may be contained within a proposed or approved WFMP. This provision is necessary to provide Working Forest Landowners an expectation that proprietary information submitted to the Department will remain confidential. Landowners are specifically sensitive about disclosing data on harvested volumes to competitors or the general public. However, this information is important for the Department to review as part of a comprehensive evaluation of the WFMP. This provision ensures that providing this information will not result in the Working Forest Landowner being placed at a competitive disadvantage in the marketplace or disclosing information that can potentially be extrapolated into determinations of income generated.

This provision goes above and beyond the NTMP rules, which do not contain this provision, but that the Board deemed necessary to include in response to the comment received. This provision was informed by PRC § 4597.12(d) and 14 CCR § 1091.4.5(b).

### **Adopt § 1094.26 Inspection of Completed Work**

The proposed adoption specifies that within six (6) months of the receipt of the work completion report specified in 14 CCR § 1094.25, the Director shall determine, by inspection, whether the work described in the report has been properly completed in conformity with the Board rules and regulations and the provisions in the FPA. If the work has been so completed, the Director shall issue a report of satisfactory completion of the work and if not, the Director shall take such corrective action as the Director determines to be appropriate in accordance with Article 8 of Chapter 8 of Part 2 of Division 4 of the Public Resources Code (commencing with PRC § 4601).

This provision is necessary for compliance and enforcement; to reinforce the process by which the Department inspects work for compliance with the WFMP and applicable rules and prepares a report of satisfactory completion of the work and if not takes corrective actions as the Director determines to be appropriate.

This provision is substantially the same as PRC § 4586, except that it has been made specific to the WFMP.

PRC § 4586 applies to WFMPs, however the Department requested it be duplicated in the WFMP rules, which the Board deemed necessary for reinforcement and to have all related information in one place so that the burden of having to reference statute very much is not placed on the regulated public.

### **Adopt § 1094.27(a) Stocking Report and Minimum Stocking Standards**

The proposed adoption specifies that within five (5) years after the completion of timber operations or as otherwise specified in the regulations, a report of stocking on the entire area logged under a Working Forest Harvest Notice and shown on a revised map shall be filed with the Director by the timber owner(s) or the Designated Agent and that if stocking is required to be met upon completion of timber operations the stocking report shall be submitted within six (6) months of the completion of operations. Finally, the provision is a preamble that specifies the minimum acceptable stocking standards on logged areas which were acceptably stocked prior to harvest are those specified in the Coast, Northern, and Southern Forest District rules and that if not otherwise specified, the minimum standards as required by § 1094.27(a)(1)-(2) apply.

This provision is necessary to reinforce the process by which stocking is reported to the Department, including the timeline and responsible parties and is necessary for compliance and enforcement and to support the maintenance of the productivity of the state's timberlands.

This provision is substantially the same as 14 CCR § 1071, except that it has been made specific to the WFMP and "the agent thereof" was replaced with "Designated Agent" commensurate with the responsibilities of the "Designated Agent". This provision was also informed by PRC § 4587.

14 CCR § 1071 applies to WFMPs, pursuant to the amended definition of "Plan", however the Department requested it be duplicated in the WFMP rules, which the Board deemed necessary for reinforcement and to have all related information in one place so that the burden of having to reference statute very much is not placed on the regulated public.

### **Adopt § 1094.27(a)(1)-(2) Stocking Report and Minimum Stocking Standards**

The proposed adoptions specify that the minimum acceptable stocking standards on logged areas which were acceptably stocked prior to harvest are those specified in the Coast, Northern, and Southern Forest District rules and that if not otherwise specified, the following minimum standards apply: (1) On Site I timberlands as defined by the

Board, the average residual basal area, measured in stems one inch or larger in diameter shall be at least 85 square feet per acre; or on Site II or lower shall be at least 50 sq. ft. per acre; or (2) The area contains an average point count of 300 per acre on Site I, II, and III lands or 150 on Site IV and V lands as specified in PRC § 4561. See 14 CCR §§ 912.7, 932.7 and 952.7 for information for the point count values of various size trees and for determining how sprouts will be counted toward meeting stocking requirements.

This provision is necessary for compliance and enforcement and to support the maintenance of the productivity of the state's timberlands.

The Board emphasized in discussion that the minimum stocking standards specified do not exist in a vacuum and stocking shall be congruent with selected silvicultural methods and that level of stocking above the minimum that will achieve long term sustained yield (LTSY).

This provision is substantially the same as 14 CCR § 1071(a)-(b), except that "14 CCR §§ 912.7, 932.7 and 952.7" was included for reference to the meaning of point count values. This provision was also informed by PRC § 4561.

14 CCR § 1071(a)-(b) and PRC § 4561 apply to WFMPs, pursuant to the amended definition of "Plan", however the Department requested it be duplicated in the WFMP rules, which the Board deemed necessary for reinforcement and to have all related information in one place so that the burden of having to reference statute very much is not placed on the regulated public.

#### **Adopt § 1094.28 Inspection of Stocking**

The proposed adoption specifies that within six (6) months of the receipt of the stocking report, the Director shall determine, by inspection, whether the stocking has been properly completed. If so, the Director shall issue a report of satisfactory completion of stocking. If not, the Director shall take such corrective action as the Director deems appropriate in accordance with the provisions of Article 8 of Chapter 8 of Part 2 of Division 4 of the Public Resources Code (commencing with PRC § 4601).

This provision is necessary for compliance and enforcement; to reinforce the process by which the Department inspects stocking for compliance with the WFMP and applicable rules and prepares a report of satisfactory completion of the stocking and if not takes corrective actions as the Director determines to be appropriate.

This provision is substantially the same as PRC § 4588.

PRC § 4588 applies to WFMPs, pursuant to the amended definition of "Plan", however the Department requested it be duplicated in the WFMP rules, which the Board deemed necessary for reinforcement and to have all related information in one place so that the burden of having to reference statute very much is not placed on the regulated public.

### **Adopt § 1094.29(a) Five (5) Year Review of WFMP**

The proposed adoption specifies the Department shall publish a public notice that the five (5) year review of the WFMP shall commence at least thirty (30) days prior to each five (5) year anniversary date of the WFMP approval and the published notice shall contain a copy of the plan summary and shall indicate that public comment on the five (5) year review shall be accepted during the thirty (30) day period. It also specifies that the public may submit to the review team additional information relevant to the purpose of the five (5) year review and the review team may consider this information when conducting its review. Finally, the provision provides a leading statement that the Director shall distribute copies of the five (5) year review public notice and plan summary to the entities/locations specified in § 1094.29(a)(1)-(5).

This provision is necessary to establish the five (5) year review process, including the responsible party for preparing and distributing the five (5) year review public notice, when the notice shall be published relative to the date of the WFMP approval and what the notice shall contain, which is necessary for transparency, clarity, efficiency and to facilitate review and comment.

The thirty (30) day public comment period was established by the Board to give the public adequate time to provide comment, if they should so choose, but at the same time maintain efficiency.

This provision was informed by PRC § 4597.12(b)-(c).

### **Adopt § 1094.29(a)(1)-(5) Five (5) Year Review of WFMP**

The proposed adoptions specify that the Director shall distribute copies of the five (5) year review public notice and plan summary to: (1) The Office of the County Clerk of the county(s) in which the approved WFMP resides; (2) The local CAL FIRE Unit headquarters for posting; (3) At such other locations as the Director may deem desirable and feasible to provide adequate public notice; (4) The Department's Internet Web site. and (5) Working Forest Landowner(s) and the Designated Agent if one exists.

This provision is necessary to further establish the five (5) year review process, including a list of minimum distribution locations, which is necessary for transparency, clarity, efficiency and to facilitate review and comment.

The identified minimum distribution locations ensure that the five (5) year review public notice is available in predictable locations accessible to the general public. The addition of the Working Forest Landowner(s) and the Designated Agent, if one exists, was added based on discussion in the 02/25/16 Management Committee for the purpose of reminding these entities of the pending review.

This provision was informed by other provisions in the WFMP rules that also require distribution of notices (§ 1094.4(a)-(e) and § 1094.15(b)(1)-(5)) and PRC § 4597.12(c).

### **Adopt § 1094.29(b) Five (5) Year Review of WFMP**

The proposed adoption specifies that the Director shall convene a meeting with the interdisciplinary review team, pursuant to 14 CCR § 1037.5, within thirty (30) days following each five (5) year anniversary of a WFMP approval to review the Plan's administrative record, agency comment, public comment, plan summary, and any other relevant information to verify that completed or current timber operation(s) have been conducted in accordance with the Plan and applicable laws and regulations. Additionally, the review team shall also analyze any significant episodic events occurring during the previous five (5) years including disease and drought caused tree mortality, windthrow, wildfire and landslides. Participation by review team agencies shall be at the discretion of each agency. If at this meeting a member of the review team determines that a field inspection is necessary to verify that timber operations have been conducted in accordance with the Plan and applicable laws and regulations, then a field inspection may be conducted within sixty (60) days following each five (5) year anniversary date of WFMP approval.

This provision is necessary to further establish the five (5) year review process including, the party responsible for convening the review team meeting, the timing of the review team meeting, what material shall be reviewed and the timing of the field inspection (if deemed necessary) which is necessary for transparency, clarity, efficiency and to facilitate review.

This provision is also necessary to limit the scope of the review to compliance with the content and procedures in the approved WFMP, and to provide clarity that the review is not re-opening the WFMP for re-approval every five (5) years.

The inclusion of an analysis of episodic events is necessary to determine if significant changes to the growth and yield assumptions of the WFMP has occurred in the preceding five (5) year period.

The thirty (30) day period, in which the Director shall convene the review team meeting, was established by the Board to give the review team an adequate interval to come to a mutually agreeable time, which was deemed necessary to facilitate full participation, but at the same time maintain efficiency. The specified time period was also deemed appropriate based on similar review team interval requirements mandated for other planning mechanisms.

The sixty (60) day period, in which the field inspection shall take place, if the review team determines that a field inspection is necessary, was established by the Board to give the review team an adequate interval to come to a mutually agreeable time, which was deemed necessary to facilitate full participation, but at the same time maintain efficiency. The specified time period was also deemed appropriate based on similar review team interval requirements mandated for other planning mechanisms.

This provision was informed by PRC § 4597.12(a) and was developed in consultation with representatives from the Department and landowner advocacy groups.

**Adopt § 1094.29(c) Five (5) Year Review of WFMP**

The plan summary shall include number of Working Forest Harvest Notices, acreage operated under each Working Forest Harvest Notice, the number of violations received, the number of substantial deviations received, and the volume harvested in relation to projections of harvest in the WFMP to determine if timber operations under Working Forest Harvest Notice(s) were conducted in compliance with the content and procedures in the WFMP.

This provision is necessary to further establish the five (5) year review process including, specifying the content of the plan summary, which is necessary for transparency, clarity, efficiency and to facilitate review.

This provision was informed by PRC § 4597.12(a)-(b) and was developed in consultation with representatives from the Department and landowner advocacy groups.

**Adopt § 1094.29(d) Five (5) Year Review of WFMP**

The proposed adoption specifies that if the Department or a review team agency does not have direct access to information needed for the five (5) year summary, the Department may require the Working Forest Landowner(s) to provide this information.

This provision is necessary to further establish the five (5) year review process including, giving the Department the authority to require the Working Forest Landowner(s) to provide the Department the information needed for the five (5) year summary, which is necessary to facilitate the collection of information not readily available to the Department, which is necessary to ensure the review team has the information necessary to conduct an adequate review. This provision is necessary for transparency, clarity, efficiency and to facilitate review.

This provision was informed by PRC § 4597.12(b) and was developed in consultation with representatives from the Department and landowner advocacy groups.

**Adopt § 1094.29(e) Five (5) Year Review of WFMP**

The proposed adoption specifies that if notices of violation have been issued, or the five (5) year review indicates potentially significant adverse impacts to the environment may occur from continuance of the WFMP, or if the Department is presented with a fair argument that a project may have a significant adverse impact on the environment, the Department shall provide written comments that a review of the WFMP content and procedures may be necessary. The Director shall state any changes and reasonable conditions in the Director's professional judgment that are needed to bring timber operations into compliance with the applicable Board rules and regulations and offer to confer with the Designated Agent in order to reach agreement on the conditions necessary to bring the timber operations into compliance and to mitigate significant adverse impacts on the environment identified during the five (5) year review. Failure to implement the changes or reasonable conditions provided by the Director or developed in conference with the Designated Agent may result in cancellation of the WFMP pursuant to §1094.31(b).

This provision is necessary to further establish the five (5) year review process including how noncompliance and potentially significant adverse impacts to the environment identified in the five (5) year review process shall be addressed, which is necessary for transparency, clarity, efficiency and to facilitate review and the prevention of degradation to public trust resources.

This provision was informed by other provisions in the WFMP rules regarding nonconformance (§ 1094.19), PRC §§ 4597.12 and 4597.16 and was developed in consultation with representatives from the Department and landowner advocacy groups.

#### **Adopt § 1094.29(f) Five (5) Year Review of WFMP**

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

The Board received comment from landowner representatives that a timeline for the completion of the five (5) year review should be incorporated into the WFMP rules. This provision is necessary to ensure the Department completes the five (5) year review in a timely manner.

The sixty (60) day period, in which the findings of the five (5) year review shall be completed by the Department, was established by the Board to give the Department adequate time (thirty (30) day period), after the thirty (30) day period in which the Director shall convene the review team meeting, to prepare the findings for distribution within the framework of other work, but at the same time maintain efficiency. The specified time period was also deemed appropriate based on similar review team interval requirements mandated for other planning mechanisms.

The one hundred and five (105) day period, in which the findings of the five (5) year review shall be completed by the Department, was established by the Board to give the Department adequate time (forty five (45) day period), after the sixty (60) day period in which the field inspection shall take place (if the review team determines that a field inspection is necessary), to prepare the findings for distribution within the framework of other work, but at the same time maintain efficiency. The Board deemed more time was necessary to prepare the findings if a field inspection shall take place because there would be more information to process. The specified time period was also deemed appropriate based on similar review team interval requirements mandated for other planning mechanisms.

This provision was informed by PRC § 4597.12 and was developed in consultation with representatives from the Department and landowner advocacy groups.

#### **Adopt § 1094.29(g) Five (5) Year Review of WFMP**

The proposed adoption specifies the findings of the five (5) year review shall be

distributed on the Department's Internet Web site. The Department shall notify the Working Forest Landowner(s) and the Designated Agent if one exists of the findings of the five (5) year review.

This provision is necessary to inform the regulated public and the Department of the Department's responsibilities regarding the distribution of the findings to facilitate transparency in the review process and facilitate access to information on the performance of the WFMP by interested parties. The identified minimum distribution location and ensures that the findings are available in a predictable location accessible to the general public. Additionally, this provision assures that the Working Forest Landowner(s) and the Designated Agent receives a copy of the Department's findings as a result of the five (5) year review.

This provision was informed by PRC § 4597.12 and comment from environmental advocacy groups.

#### **Adopt § 1094.29(h) Five (5) Year Review of WFMP**

The proposed adoption specifies that this section does not authorize the public disclosure of proprietary information without first obtaining the Working Forest Landowner's consent. Proprietary information shall be treated consistent with PRC § 21160 and GOV § 6254.7.

This provision is necessary to provide Working Forest Landowners an expectation that proprietary information will remain confidential when submitted to the Department as part of the five (5) year review process. Landowners are specifically sensitive about disclosing growth and yield data to competitors or potential purchasers of their forest products. However, this information is important for the Department to assess compliance. This provision ensures that providing this information will not result in the Working Forest Landowner being placed at a competitive disadvantage in the marketplace.

This provision is substantially the same as PRC § 4597.12(d), except that "Proprietary information shall be treated consistent with PRC § 21160 and GOV § 6254.7." was added to provide reference to the meaning of "proprietary information". This provision was also informed by comment received from landowners requesting protection of proprietary information that may be contained within an approved WFMP or that landowners may choose to include as part of a WFHN.

#### **Adopt § 1094.30(a)-(c) and (e)-(f) Change of Timberland Owner(s)**

The proposed adoptions specify (a) Upon a change of ownership of the land described in the WFMP, the transferring timberland owner(s) shall provide the acquiring timberland owner(s) with a written Transfer of Responsibilities Notice that discloses the existence of the WFMP and informs the acquiring timberland owner(s) of the need to notify the Department of the acquiring timberland owner(s) intent to assume the responsibilities of the WFMP. The transferring timberland owner(s) shall also send the Department a copy of the Transfer of Responsibilities Notice provided to the acquiring



timberland owner(s). (b) If the transferring timberland owner(s) fails to provide the Notice required in the 14 CCR § 1094.30(a) and the Department discovers the change of ownership, the Department shall provide the acquiring timberland owner(s) with the Transfer of Responsibilities Notice. (c) The acquiring timberland owner(s) shall have one (1) year from the date of receipt of the Transfer of Responsibilities Notice pursuant to either 14 CCR § 1094.30(a) or 14 CCR § 1094.30(b), whichever is applicable, to notify the Department in writing of their intent to assume the responsibilities of the WFMP. If the Department does not receive notification within this period, the Department may cancel the WFMP. (e) A violation of this section by a timberland owner(s) does not constitute a crime pursuant to PRC § 4601. (f) After a Plan is found in conformance with the Board rules and regulations, the Director may file a Notice of Stocking Requirements on the property with the recorder of the county within which the Plan is located if any area logged under a Working Forest Harvest Notice has not had a report of satisfactory stocking issued by the Director.

These provisions are necessary to establish a uniform process to ensure that a person who acquires timberlands described in a WFMP receive notice on how to assume the plan. It also, gives discretion to (rather than mandates) the Department to cancel a WFMP if the new landowner does not assume the plan within one year of receiving the notice.

**1094.30(a)** is necessary to ensure an acquiring timberland owner(s) is notified of the existence of a WFMP and the acquiring timberland owner's responsibility to notify the Department should they want to assume responsibility for the WFMP. Providing a copy of this notification to the Department allows the Department to determine if the process described in subsection (b) is necessary.

**1094.30(b)** is necessary to provide notification to an acquiring timberland owner(s) of the existence of a WFMP should the transferring timberland owner(s) fail to do so.

**1094.30(c)** is necessary to provide the acquiring timberland owner(s) enough time to evaluate the provisions within the WFMP while providing the Department with assurance that the decision will be made in a timely manner. Providing this decision in writing allows the Department to maintain a complete record of the change in timberland owner(s). The provision allowing the Department to cancel a plan after the time period expires will prevent the Department from holding open, for an indefinite period of time, a WFMP that has no responsible timberland owner.

**1094.30(e)** is necessary to prevent these regulations from creating a new crime that may burden local law enforcement agencies.

**1094.30(f)** is necessary if any area logged under a Working Forest Harvest Notice has not had a report of satisfactory stocking issued by the Director to facilitate the likelihood of stocking being achieved after transfer of a WFMP through the Director filing a Notice of Stocking Requirements on the property with the recorder of the county within which the Plan is located. This provision is necessary to ensure the productivity of the state's

timberlands is maintained after transfer of a WFMP to a new owner. The stocking standards have been designed to maintain an adequate number of commercial trees on a site to realize the productive capacity of the soil through the growth of commercial tree species.

These provisions are substantially the same as 14 CCR § 1090.26(a)-(e), the comparable provision in the NTMP rules (following the enactment of AB 2239, which specifically amended PRC § 4593.10), except that they have been made specific to the WFMP. Provisions § 1094.30(a)-(c) and (e) are also substantially the same as PRC § 4597.9. These provisions were also developed in consultation with the Department.

#### **Adopt § 1094.30(d) Change of Timberland Owner(s)**

The proposed adoption specifies that upon transfer of ownership, the timberland owner(s) shall identify a Designated Agent pursuant to 14 CCR § 1094.10.

The Board deemed this provision necessary for the reasons provided in § 1094.2(a), Definition of “Designated Agent”.

This provision was informed by PRC § 4597.9 and was developed in consultation with the Department.

#### **Adopt § 1094.31(a) Cancellation of Plans**

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

This provision is necessary to provide a method by which a WFMP may be terminated at the discretion of the Working Forest Landowner(s). To maintain the Department’s enforcement authority for operations under a WFMP, cancellation of a WFMP cannot occur until all provisions, including the obligation to meet stocking requirements, have been met on land covered by a WFHN. This provision is necessary to ensure the continued productivity of the state’s timberlands. This provision is also necessary for compliance and enforcement.

This provision is substantially the same as PRC § 4597.10 and was informed by 14 CCR § 1090.27, the comparable provision in the NTMP rules.

#### **Adopt § 1094.31(b) Cancellation of Plans**

The proposed adoption specifies that if the Department determines that the objectives of Unevenaged Management and Sustained Yield are not being met by a Working Forest Landowner(s), or there are other persistent violations detected that are not being corrected, the Department shall cancel a previously approved WFMP and any further timber operations under the Plan shall be terminated. In making a determination to cancel a Plan, the Department may cite the findings of a review conducted pursuant to PRC § 4597.12 and 14 CCR § 1094.29. Cancellation of the Plan may be appealed by

the plan submitter(s) or the Designated Agent utilizing the process pursuant to PRC § 4597.6(e)(1) and 14 CCR 1094.17(e).

This provision is necessary to prevent operations that do not meet the objectives of uneven aged management from continuing and the Working Forest Landowner(s) from continuing to benefit from the permitting efficiencies afforded by the WFMP. Similar to the NTMP, these permitting efficiencies are only provided, pursuant to PRC § 4597.1(j), to landowners committed to maintaining, restoring, or creating uneven aged managed timber stand conditions. Providing an appeals process is necessary to provide recourse to the Working Forest Landowner(s) in the event the Department cancels a WFMP. This layer of Board governance in the process facilitates the prevention of WFMPs being cancelled arbitrarily or capriciously.

This provision is substantially the same as PRC § 4597.16.

#### **Adopt § 1094.32(a) Transition or Expansion of Plans**

The proposed adoption specifies that if a landowner with an approved NTMP with less than 2,500 acres of timberland expands the total timberland ownership to 2,500 or more acres of timberland through acquisition of additional timberland they may transition into a WFMP through a substantial deviation to the NTMP.

This provision is necessary to establish an efficient process for owners of timberland with an NTMP who acquire more timberland to transition to a WFMP. Facilitating this transition through the substantial deviation process allows public participation in the process while reducing the regulatory burden on the aspiring Working Forest Landowner.

This provision is substantially the same as PRC § 4597.17.

#### **Adopt § 1094.32(a)(1)-(3) Transition or Expansion of Plans**

The proposed adoption specifies (1) Operations may continue under an approved NTMP for a period of one (1) year after the acquisition of property that would result in exceeding 2,500 acres of timberland, if the landowner notifies the Director in writing of their intent to transition to a WFMP. The Director may grant up to an additional one (1) year of operations under the previously approved NTMP to landowners who demonstrate substantial work has been conducted by a RPF(s) towards transitioning to a WFMP. Substantial work may include, but is not limited to, augmented growth and yield, harvest document preparation, legal document preparation, updated field work or biological assessments. (2) The lack of demonstration of substantial work being conducted by a RPF toward transitioning to a WFMP shall result in cancellation of the NTMP by the Department. (3) The RPF responsible for preparation of the substantial deviation to transition an approved NTMP to a WFMP shall review the contents of this article including, but not limited to, 14 CCR §§ 1094.1 – 1094.3, 1094.6, 1094.10 - 1094.12, 1094.23, 1094.24 and 1094.32 to assure that all required information is included and addressed in the proposed substantial deviation prior to submittal to the Director.

These provisions are necessary to further establish an efficient process with sideboards for owners of timberland with an NTMP who acquire more timberland to transition to a WFMP, which is necessary for transparency, clarity, efficiency and to facilitate review, compliance and enforcement.

**1094.32(a)(1)** is necessary to allow timber operations to continue during the time it takes to develop the additional information required for the substantial deviation. The one (1) year period, in which the NTMP shall be transitioned to a WFMP, was established by the Board to give the landowner adequate time to develop the additional information required for the substantial deviation, but at the same time to oblige accountability. The specified time period was also deemed appropriate based on the known time required to develop plans. The Board also deemed it necessary to give discretion to the Director to grant up to an additional one (1) year until the NTMP must shall be transitioned to a WFMP in recognition of the time that it may take to develop the additional information required and to facilitate the review time intervals associated with a substantial deviation on the condition that substantial work has been completed. The Board also deemed it necessary to provide examples of substantial work to give meaning to the term.

**1094.32(a)(2)** is necessary to prevent landowners from continuing to operate under the NTMP after increasing their ownership beyond the 2,500 acre cap imposed by the NTMP if they have not made progress toward transitioning to a WFMP. Being allowed to conduct timber operations under the NTMP after the total ownership exceeds the cap is an opportunity in recognition that a WFMP takes time and capital to prepare. Giving the Department authority to cancel the NTMP of a landowner that continues to operate without evidence of significant progress towards the transition to a WFMP is necessary to prevent landowners from taking advantage of this opportunity.

**1094.32(a)(3)** is necessary to provide clear direction to the RPF and regulated public of the information that is required to be provided to the Director in the substantial deviation to transition a NTMP to a WFMP.

These provisions were informed by PRC § 4597.17 and were developed in consultation with representatives from the Department and landowner advocacy groups.

**Adopt 14 CCR § 1094.32(b)**

The proposed adoption specifies that a Working Forest Landowner with an existing WFMP may expand the acreage of the WFMP pursuant to the process described in 14 CCR § 1094.23.

This provision is necessary to further establish an efficient process with sideboards for owners of timberland with an NTMP who acquire more timberland to transition to a WFMP, which is necessary for transparency, clarity, efficiency and to facilitate review, compliance and enforcement. Specifically, this provision provides the review team and the public an opportunity to evaluate and provide comment on any potential significant

environmental impacts that may result from operations under the approved provisions of the WFMP on the additional timberlands.

This provision was informed by PRC § 4597.17 and was developed in consultation with representatives from the Department.

#### **Adopt § 1094.33 Safe Harbor Agreement**

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

This provision was developed for the purpose of providing landowner(s) an incentive to obtain coverage under a Safe Harbor Agreement with the California Department of Fish and Wildlife. This provision is necessary to suggest to Working Forest Landowner(s) that they may also seek, simultaneously with the preparation of a WFMP, approval of a Safe Harbor Agreement from the Department of Fish and Wildlife (DFW) and that all review costs associated with the Safe Harbor Agreement Approval process incurred by DFW would be paid from the Timber Regulation and Forest Restoration Fund. Applying for a Safe Harbor Agreement during WFMP review would also lead to permitting efficiencies for the landowner, and if approved, could protect the landowner from future negative economic consequences associated with creating habitat for endangered species.

This provision is substantially the same as PRC § 4597.18.

#### **Adopt § 1094.34 State Restoration Projects**

The proposed adoption specifies notwithstanding any other law, if a person with a WFMP applies for state restoration grant funding for a restoration project that provides a significant public benefit, the application shall not be summarily denied on the basis that the project is a required condition of the Plan.

This provision is necessary to inform the regulated public that an entity with a WFMP may be eligible for state restoration grants. This is necessary because many state restoration grants exclude work that is otherwise required to be completed under a timber harvesting plan.

This provision is substantially the same as PRC § 4597.19.

#### **Adopt § 1094.35 Southern Subdistrict**

The proposed adoption specifies that this WFMP shall not apply to the Southern Subdistrict of the Coast Forest District, as defined in Section 14 CCR § 895.1.

This provision is necessary to exclude landowners from the Southern Subdistrict of the Coast Forest District from applying for a WFMP if they are otherwise eligible. The Southern Subdistrict was specifically excluded from participation by the Legislature pursuant to PRC § 4597.22.

This provision is substantially the same as PRC § 4597.22.

#### **Amend 14 CCR § 1104.1(i)(2) Conversion Exemptions**

The proposed amendment to this section adds “WFMP”, where NTMP is used, for consistency and clarity. The proposed amendment specifies the requirements of 14 CCR § 1104.1(i)(2) need not be met if an approved WFMP 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 the approved WFMP and is necessary to prevent the project proponent from duplicating the analysis of large old trees contained in the approved WFMP.

#### **Amend 14 CCR § 1115.3 Conduct of Hearing**

The proposed amendments to this section add “WFMP”, where NTMP is used, for consistency and clarity.

The proposed amendments are necessary to inform the regulated public about the conduct of a public hearing at the request of the board of supervisors or planning commission of any county with special rules. Adding the WFMP to this list allows counties with special rules to treat the WFMP in a consistent manner with other Plans.

#### **Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings” ~~(1st Edition, revised 10/27/14)~~ (1st Edition, revised 04/21/15) (TRA #5)**

The proposed amendments to TRA # 5, which was incorporated by reference in the Road Rules approved in June of 2014, include:

- Incorporation of an updated reference date for the 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 from 10/27/14 to 04/21/15.
- Incorporation of WFMP into TRA #5 C. Design and Treatment Measures to Achieve Hydrologic Disconnection and specifically into bullet point 3 of Design and Treatment Measures to Achieve Hydrologic Disconnection.
- Incorporation of WFMP into TRA #5 C. Logging Road Outsloping and Installation of Rolling Dips and specifically into the final paragraph of Logging Road Outsloping and Installation of Rolling Dips.

TRA #5 provides guidance on reduction of diversion potential, hydrologic disconnection, high risk watercourse crossings and road drainage, as it applies to THPs, NTMPs, and PTHPs. The Board deemed that this existing technical rule addendum should also apply to the WFMP for purposes of consistency the NTMP.

### **ECONOMIC IMPACT ANALYSIS (pursuant to GOV § 11346.3(b)(1)(A)-(D))**

The proposed action is not likely to create or eliminate jobs within the State of California. The primary purpose of the proposed action would develop a new permitting vehicle, known as the Working Forest Management Plan (WFMP), for Working Forest Landowners, that would streamline the current permitting structure that landowners who own greater than 2,500 acres, but less than 15,000 acres, of timberland must currently utilize. Regardless of the type of permitting vehicle landowners utilize, these landowners would still require the services of entities including, Registered Professional Foresters, Licensed Timber Operators, Professional Biologists, Professional Botanists and Professional Geologists.

The professionals working for various state and local agencies, required to review and enforce the proposed action may increase, but an estimate would be speculative depending on the extent that WFMPs supplant the submission of THPs. Therefore, the number of jobs related to implementation of the State's Forest Practice Program, in the public or private sector, is not likely to change as a result of the proposed action.

The proposed action is not likely to create new or eliminate existing businesses, or small business within the State of California. Small businesses means independently owned and operated, not dominant in their field of operations and having annual gross receipts less than \$1,000,000. The primary purpose of the proposed action would develop a new permitting vehicle, known as the Working Forest Management Plan (WFMP), for Working Forest Landowners, that would streamline the current permitting structure that landowners who own greater than 2,500 acres, but less than 15,000 acres, of timberland must currently utilize. Regardless of what type of permitting vehicle landowners utilize, these landowners would still require the services of businesses, such as consulting firms, that provide professional support for commercial timber harvest activities. Additionally, the lumber mills, trucking companies, and Licensed Timber Operators would still be required in their current capacity; therefore no loss of business is likely to occur as a result of the proposed action. Finally, it is likely that the existing business community that support and manage commercial timber harvest activities is sufficient to manage any and all commercial timber harvest activities that may occur under WFMPs, therefore no new businesses would likely be generated as a result of the proposed action. The projection is that commercial timber management will continue to occur at current scales across the State regardless of the outcome of the proposed action.

The proposed action will not likely result in the expansion of businesses, including small businesses, currently doing business within the State. The primary purpose of the proposed action is to create the Working Forest Management Plan (WFMP) program, based on the model of the Nonindustrial Timber Management Plan (NTMP) program, to provide nonindustrial landowners (with less than 15,000 acres of timberland) greater opportunities for cost-effective timber management than currently exist through the application of a timber harvesting document that would allow for long-term approval with certain conditions, such as the use of uneven aged forest management and proof that operations provide for sustained yield and stricter environmental standards (relative to the NTMP). Commercial timber management will continue at current scales across the

state with no discernible expansion or contraction as a result of the proposed action.

The proposed action may have a beneficial effect on the environment. These beneficial effects upon the environment could be related to fire resiliency, habitat, aesthetics, carbon sequestration and decreased timberland conversion. However, these prospective benefits are speculative, but it may be presumed, at a minimum, that the level of protective effect upon the environment will not be reduced as a result of the proposed action. The proposed action is not expected to have an effect upon the health and welfare of California residents, worker safety, the prevention of discrimination, or the promotion of fairness or social equity. Neither is the proposed action expected to result in an increase in the openness and transparency in business and government.



**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT RELIED UPON (pursuant to GOV SECTION 11346.3(b)(3))**

The Board of Forestry and Fire Protection relied on the following list of technical, theoretical, and/or empirical studies, reports or similar documents to develop the proposed action.

1. Assembly Floor Analysis on AB 904 prepared by Mario DeBernardo. September 6, 2013. <http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml>
2. Senate Appropriations Committee Fiscal Summary on AB 904 prepared by Marie Liu. September 3, 2013. <http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml>
3. California Department of Forestry and Fire Protection. *NTMP Expansion Study*. January, 2013.
4. California Department of Forestry and Fire Protection. *Non-industrial Timberland Management Plan Growth and Yield Guidelines*. March, 2006.
5. Excerpts from the Public Resources Code (PRC), 2014: §§ 752, 753, 4512, 4512.5, 4513, 4527, 4527.5, 4528.5, 4551, 4551.5, 4552, 4553, 4561, 4561.1, 4562.5, 4562.7, 4571, 4582.7, 4583, 4585-4588, 4593.10, 4597-4597.22, 4601, 4629.3, 21000(g), 21092 and 21160.
6. Excerpts from Government Code (GOV), 2015: § 6254.7
7. Excerpts from Title 14 of the California Code of Regulations (14 CCR), 2015: §§ 895, 895.1, 912.7 [932.7, 952.7], 913.2 [933.2, 953.2], 913.10 [933.10, 953.10], 913.11 [933.11, 953.11], 916.1 [936.1, 956.1], 916.3 [936.3, 956.3], 916.4 [936.4, 956.4], 916.5 [936.5, 956.5], 919.9 [939.9], 919.11, 923 [943, 963], 923.1 [943.1, 963.1], 923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4 [943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9, 963.9], 929 [949, 969], 945.1, 1032.9, 1032.10, 1034, 1035 -1035.4, 1037.5, 1038, 1054, 1071, 1090-1090.27, 1092, 1093, 1104.1, 1115.3 and 15380(d).
8. Board of Forestry Technical Rule Addendum Number 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings”
9. Memo from Richard A. Wilson regarding New Regulations for Sensitive Watersheds/Domestic Water Supplies and Late Successional Stage; New Silvicultural Regulations as Changed by the Board of Forestry. February 22, 1994.
10. 399 Request for Economic Data. June 26, 2015
11. Letter from Richard Wilson. November 6, 2015

12. Letter from Environmental Protection Information Center (EPIC) and Coast Action Group (CAG). January 15, 2016
13. Letter from CAG. March 20, 2016
14. Letter from EPIC and CAG. March 24, 2016
15. Letter from EPIC. March 2, 2015 (submitted with March 24, 2016 Letter)
16. CAL FIRE Comment. April 28, 2016

**REASONABLE ALTERNATIVES TO THE PROPOSED ACTION CONSIDERED BY THE BOARD, IF ANY, INCLUDING THE FOLLOWING AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES (pursuant to GC § 11346.2(b)(4)(A) and (B)):**

- **ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACTS ON SMALL BUSINESS AND/OR**
- **ALTERNATIVES THAT ARE LESS BURDENSOME AND EQUALLY EFFECTIVE IN ACHIEVING THE PURPOSES OF THE REGULATION IN A MANNER THAT ENSURES FULL COMPLIANCE WITH THE AUTHORIZING STATUTE OR OTHER LAW BEING IMPLEMENTED OR MADE SPECIFIC BY THE PROPOSED REGULATION**

The Board has considered the following alternatives and rejected all but alternative #4.

**Alternative #1: No Action**

This alternative would result in not adopting new Forest Practice Rules to make specific the WFMP program or amending the existing Forest Practice Rules to incorporate reference to the WFMP. Further, this alternative would result in not amending the existing Forest Practice Rules to make specific parts of the NTMP program to reflect the most current statute.

This alternative was rejected because the Board is compelled by PRC § 4597.20, to act to implement PRC § 4597 et seq., chaptered as a consequence of the passage of AB 904, by January 1, 2016. Although there is no deadline for action associated with the sections of the PRC chaptered as a consequence of the passage of AB 2239 and SB 1345, the Board rejected the no action alternative in order to capitalize on the significant effort associated with obligations set forth in PRC § 4597.20.

**Alternative #2: Take Action to Increase the Specificity of the Regulation Needed to Implement the Statute**

This alternative would increase the specificity of the regulation needed to implement the statute.

The Board rejected increasing the specificity of the regulation needed to implement the statute in recognition of the diversity in timberland, management and mitigations, to allow the final level of prescription to be developed by the participants familiar with the site specific, on the ground conditions. The Board found that increasing the specificity, relative to the proposed action, did not provide enough flexibility to participants to meet the statutory requirements in alternative ways that were more site-specific and at least as effective.

### **Alternative #3: Take Action to Decrease the Specificity of the Regulation Needed to Implement the Statute**

This alternative would decrease the specificity of the regulation needed to implement the statute. This alternative would provide maximum flexibility for participants allowing them to develop performance based standards to implement the statute.

The Board rejected decreasing the specificity of the regulation needed to implement the statute because the Board found that a minimum level of prescriptive standards were needed to implement the statute. Decreasing the specificity would generate broader interpretation by the participants and may result in enforcement complications for the Department, who must have the ability to enforce regulatory prescriptive standards for the protection of the public trust resources. It is important to note that the proposed action does include the option for Registered Professional Foresters (RPF) to develop alternative prescriptions, practices, mitigations etc. to take the place of certain prescriptive standards. This effectively offers RPFs the ability to develop a performance based alternative, but must provide equal to or greater protection than the Forest Practice Rules. These provisions were included because the Board does recognize that prescriptive standards do not work effectively for all circumstances. It would then be incumbent upon the RPF to explain and justify why the prescriptive standard is not compatible with the proposed project and provides discretion to the Director to approve such proposals.

### **Alternative #4: Take Action as Proposed and Modified through the Formal Public Review and Comment Process**

This alternative would result in adopting new Forest Practice Rules to make specific the WFMP program and amending the existing Forest Practice Rules to incorporate reference to the WFMP. Further, this alternative would result in amending the existing Forest Practice Rules to make specific parts of the NTMP program to reflect the most current statute. The proposed action is a mix of performance based and prescriptive standards as is the entire Forest Practice Rules.

This is the preferred alternative as it fulfills the obligations, specified in statute, of the Board and represents a product based upon compromise and the greatest degree of consensus achievable at the time the Board authorized noticing of the proposed action. Public and Agency representatives have reviewed the proposed action and provided input, which is reflected therein. The Board struck a balance between performance based and prescriptive standards. The Board found that a minimum level of prescriptive standards were needed to implement the statute. However, the proposed action does include the option for RPFs to develop alternative prescriptions, practices, mitigations etc. to take the place of certain prescriptive standards. This effectively offers the RPFs the ability to develop a performance based alternative, but must provide equal to or greater protection than Forest Practice Rules. These provisions were included because the Board does recognize that prescriptive standards do not work effectively for all circumstances. It would then be incumbent upon the RPF to explain and justify why the prescriptive standard is not compatible with the proposed project and provides discretion to the Director to approve such proposals.

The Board finds that none of the following alternatives:

- Would have any adverse impact on small business.
- Would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation than the proposed action.
- Would be more effective in carrying out the purpose for which the action is proposed and would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

**Prescriptive Standards versus Performance Based Standards (pursuant to GC §§11340.1(a), 11346.2(b)(1) 11346.2(b)(4)(A)):**

The regulation does not mandate the use of specific technologies or equipment, but does prescribe specific actions or procedures. The proposed action is, in fact, a mix of performance based and prescriptive standards as is the entire Forest Practice Rules. Bottom line, the increasing of performance based standards was not reasonably expected to be as effective and less burdensome. Alternative #4 is preferred for the reasons described above and serves as the explanation for why prescriptive standards are required.

**FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE RELIED UPON TO SUPPORT INITIAL DETERMINATION IN THE NOTICE THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS (pursuant to GOV § 11346.2(b)(5))**

This fiscal and economic impact analysis for the Working Forest Management Plan (WFMP) relies upon research and outreach conducted by Board staff to affected stakeholders, including the regulated public and agency personnel. A request for information (399 Request for Economic Data dated June 26, 2015) was widely distributed via email, online posting, and made available at the July 2015 Board meeting that requested specific information on the potential economic impacts of the proposed action. In addition, Board staff reached out to consulting foresters throughout the state to further garner data on potential economic impacts via the questions posed in the referenced request for information. The determination of fiscal and economic impact analysis is also based on the September 3, 2013 Senate Appropriations Committee Fiscal Summary and relies on the decades of experience that Board staff has practicing forestry in California.

Statewide, excluding the Southern Subdistrict of the Coast Forest District, the WFMP will impact individuals and businesses that own less than 15,000 acres of timberland, by having another planning option, which if selected will have a cost. Forestry consulting will be favorably impacted, but according to conducted research, no new jobs or business will be created.

Statewide, the number of timberland owners with ownerships between 2,500 and 15,000 acres is 67. Additionally, two or more landowners may aggregate and qualify to use the WFMP so long as the total ownership is less than 15,000 acres. A NTMP holder may also acquire timberland in excess of 2,500 total acres and qualify to use the WFMP so long as the total ownership is less than 15,000 acres.

The estimated cost for a less than 5,000 acre WFMP is \$100,000. The estimated cost for a 5,000 to 10,000 acre WFMP is \$300,000. The estimated cost for a 10,000 acre to 15,000 acre WFMP is \$500,000. This cost is based on the estimated costs for a forestry consultant to do the field work, data collection, analysis, and develop the plan. The final cost depends on many factors other than the total harvest area including topography, brush, habitat, infrastructure constraints and the general complexity. It is implausible that all eligible timberland owners will elect to use the WFMP. However, this cost must be qualified by the assumption that this cost, if not spent on a WFMP, would be spent on another planning option, mostly likely multiple THPs. If the number of WFMPs submitted is 33, over the life of the regulation, and the average cost of a WFMP is \$300,000, then the regulation is expected to cost individuals and businesses owning timberland \$9.9 million. It is expected that 5 members of the regulated public will choose this planning option per year. The tradeoff to the regulated public of this option, compared to that of preparing a THP, is that the initial cost is higher than that of a THP, but the long term cost of subsequent harvests (under the umbrella of the WFMP) are lower because the notice is ministerial.

Implementation costs are unknown but will depend heavily on many factors including size of harvest area, topography, brush, size of harvestable trees, number of harvestable trees, delivered log price, fuel costs, type of equipment being utilized and infrastructure constraints. Individuals and businesses that own timberland will be subject to these costs and will hire consulting foresters and timber operators to complete the work. However, these businesses will not expand as a result of the work under the assumption that work will shift from preparation and implementation of other Plans that landowners elect to replace with the WFMP.

The proposed action will not adversely affect the ability of California businesses to compete with other states by making it more costly to produce goods and services in California because although the cost of a WFMP is higher than other planning options, the additional cost is recaptured over time because subsequent harvest entries can be conducted under a much simpler, less expensive ministerial notice. In the development of a WFMP, a timberland owner first prepares a management plan that is subject to a multi-agency review process and acts as the functional equivalent of an EIR under CEQA. The cost of preparing this management plan is greater than a typical THP, much of which is the result of the required sustained yield analysis. However, unlike a THP, which is good for no more than seven years, a WFMP lasts in perpetuity and the additional cost is recaptured over time because subsequent harvest entries can be conducted under a much simpler ministerial notice to the Department that is tiered off of the WFMP.

The anticipated fiscal impact of the WFMP is provided in the Senate Appropriations Committee Fiscal Summary on AB 904 prepared by Marie Liu on September 3, 2013. According to this summary, the following costs and savings to any State agency are projected. "Cost or savings" means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations.

1. One-time costs of at least \$150,000 from the Timber Regulation and Forest Restoration Fund to the Board of Forestry for the development of regulations as required by AB 904.
2. One-time costs of approximately \$75,000 from the Timber Regulation and Forest Restoration Fund to the regional water quality control boards (RWQCBs) for adoption and revision of general waste discharge requirements.
3. Assuming five WFMPs are submitted each year, annual costs of approximately \$500,000 - \$750,000 in fiscal year (FY) 2014-15 and growing to \$600,000 to \$950,000 in FY 2018-19, from the Timber Regulation and Forest Restoration Fund to CAL FIRE, Department of Fish and Wildlife, the RWQCBs, and Department of Conservation for the approval, then ongoing review, of WFMPs. This cost will at least be partially offset by a decrease in timber harvest plans (THPs) and Nonindustrial Timber Management Plans (NTMPs) submitted.
4. CAL FIRE and the reviewing agencies will all incur costs in the review of a WFMP application, the review of harvest notices, and the five-year review of an approved WFMP. The costs to the agencies depend on the number of plans submitted and approved as well as the complexity of those plans.
5. Based on a February 2013 report from the Natural Resources Agency and CalEPA that was required by AB 1492, the Resources Agency, CAL FIRE, DFW, SWRCB, and DOC collectively need approximately \$25 million annually and 193 positions to review all discretionary harvest permits (THPs, NTMPs, etc.) received each year. The actual cost to review each THP can vary greatly depending on factors such as the quality of the plan submitted, the size of the plan, and the complexity of the plan. Based on the number of permits submitted in 2011-12, Department staff estimates that the average cost of reviewing a THP is in the high tens of thousands.
6. Workloads involved in reviewing and approving a WFMP will be 25-50% higher than a THP because a WFMP allows harvesting indefinitely. Assuming five plans are submitted annually, this proposed action will likely result in costs to the reviewing agencies in the range of the mid to high hundreds of thousands of dollars. Once a WFMP is approved, the reviewing agencies will incur ongoing costs to review harvest notices and to conduct the five-year review. Each WFMP is likely to result in costs collectively across the reviewing agencies of a several thousands of dollars annually. Continuing with the assumption of five WFMPs submitted annually, at the end of a five year period, there will be review costs in the low hundreds of thousands of dollars.
7. Staff notes that aside from the initial costs of regulatory development for the WFMP program, the initial and ongoing costs caused by the proposed action may be at least partially offset by a decrease in THPs, depending on the extent

that a WFMP supplants the submission of THPs. The extent to which a WFMP supplants THP submission is speculative.

Finally, additional expenditures will be absorbed within existing budgets and resources. In general, the cost to administer the Forest Practice Program, which includes review and inspection of Plans, is covered by the Timber Regulation and Restoration Fund.

**DESCRIPTION OF EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATION (pursuant to GOV § 11346.2(b)(6))**

The Code of Federal Regulations. Based has been reviewed and based on this research, the Board found that the proposed action neither conflicts with, nor duplicates Federal regulations. There are no comparable Federal regulations for timber harvesting on State or private lands.

**POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS**

The adopted regulation, in combination with existing Board rules, on which the WFMP Program relies, do provide adequate standards to evaluate significant adverse individual and cumulative impacts on the environment, do provide standards for mitigation and/or minimization of significant adverse individual or cumulative impacts, and address alternatives.

The California Environmental Quality Act (CEQA) requires review, evaluation and environmental documentation of potential significant environmental impacts from a qualified project.

Rulemaking Process

The Board's rulemaking process has been certified by the Secretary of Resources as meeting the requirements of PRC § 21080.5. The following are the requirements for Certification pursuant to PRC § 21080.5 and the reference to the rules and statues that satisfy the requirements:



## Requirements for Certification Pursuant to P.R.C. sec 21080.5

Regulatory Program - 21080.5(b)	P.R.C. § 4511 et seq.
Interdisciplinary approach using natural and social sciences – 21080.5(d)	P.R.C. §§ 4512, 4513, Gov Code §§ 11346.3, 11346.5(a)(12), 11346.9(a)(4)
Enabling legislation – 21080.5(d)(1)	
Protection of the environment among the principal purposes	P.R.C. §§ 4512, 4513, 4551
Authority to adopt rules for protection of the environment	P.R.C. §§ 4551, 4561-4561.6, 4562
Guided by standards in the legislation	P.R.C. §§ 4551-4554, 4561-4563.5
Rules and Regulations – 21080.5(d)(2)	
Activity not be approved if . . . – (d)(2)(A)	14 C.C.R. § 1144(d)
Guidelines – (d)(2)(B)	
Evaluation of proposed activities	14 C.C.R. § 1144(b)
Preparation of the plan	14 C.C.R. § 1142
Consistent with environmental protection purposes	14 C.C.R. § 1144(b)
Consult with all public agencies with jurisdiction – (d)(2)(C)	P.R.C. §§ 4540, 4551, 4551.5, 4553, Gov. Code § 11346.4
Written responses – (d)(2)(D)	
In final action on the plan	14 C.C.R. § 1144(c)
To significant environmental points raised	14 C.C.R. § 1144(c)
Notice of decision filed with Resources Agency – (d)(2)(E)	14 C.C.R. § 1145
Notice of filing of the plan – (d)(2)(F)	Gov. Code § 11346.4
To the public	Gov. Code § 11346.4
To any person who requests	Gov. Code § 11346.4
Written document – 21080.5 (d)(3)	
Description of the activity	14 C.C.R. § 1142
Alternatives	14 C.C.R. § 1141(c)
Mitigation measures	14 C.C.R. § 1142(b)

Pursuant to PRC § 21080.5(d)(2)(B), guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program are required by the adopted regulation and existing rules. Like NTMPs, WFMPs will be subject to and include orderly evaluation and require the plan document to be consistent with the Forest Practice Act.

The proposed action would be an added element to the State's comprehensive Forest Practice Program under which all commercial timber management is regulated. The Board's Forest Practice Rules along with the Department oversight of rule compliance function expressly to prevent adverse environmental effects.

Harvesting plans (THPs, NTMPs, WFMPs etc.) contain a mix of avoidance and mitigation measures that are required by the Forest Practice Rules, developed through consultation with interdisciplinary reviewing agencies, or are specifically designed by a licensed Registered Professional Forester (RPF) to reduce the risk for potential adverse effects. They also contain a comprehensive cumulative effects analysis utilized in part to identify potential risks and effects to aid in the RPF's avoidance and mitigation measure development. The Board has existing rules, specifically 14 CCR § 912.7 [932.7, 952.7] and Board of Forestry Technical Rule Addendum No. 2, which provide a checklist and guidance to RPFs in the preparation of harvesting plans as to the fundamental metrics that should be considered in the development of a comprehensive cumulative effects analysis. In addition, RPFs are required to address potential significant impacts from greenhouse gas emissions for proposed projects pursuant to 14 CCR §15064.4. It is required that RPFs provide CAL FIRE with sufficiently clear and detailed information that allows the agency to use their discretion in determining that no substantial adverse environmental impacts are occurring as a result of the proposed project.

State representatives from interdisciplinary reviewing agencies (lead, responsible and trustee agencies pursuant to 14 CCR §§ 15367, 15381, and 15386, respectively) review every harvesting plan prior to a decision as to approval or denial. At times, local and federal agency representatives are also involved in the review process. The following discussion is to further provide on information on the review and evaluation process of individual projects on how the lead agency, CAL FIRE, is able to use their discretion in determining that no substantial adverse environmental impacts are occurring as a result of the proposed project.

#### Forest Practice Rules (Project Evaluation)

The THP process substitutes for the EIR process under CEQA pursuant to PRC § 21080.5, given the Secretary of the Resources Agency has certified the regulatory program, as described above, pursuant to PRC § 21080.5.

In recognition of this certification and PRC § 4582.75, the FPRs are intended to provide the exclusive criteria for reviewing harvesting plans (THPs, NTMPs, WFMPs etc.). If the Director believes that there are significant adverse environmental impacts not covered

in existing rules, matters should be referred to the Board as otherwise specified in these rules.

Following are sections of the Forest Practice Rules and a discussion of the process designed to prevent significant adverse environmental impacts.

Pursuant to 14 CCR § 896(a) .....It is the Board's intent that no THP shall be approved which fails to adopt feasible mitigation measures or alternatives from the range of measures set out or provided for in these rules which would substantially lessen or avoid significant adverse impacts which the activity may have on the environment.

Pursuant to 14 CCR § 897(a), RPFs who prepare plans shall consider the range of feasible silvicultural systems, operating methods and procedures provided in these rules in seeking to avoid or substantially lessen significant adverse effects on the environment from timber harvesting. RPFs shall use these rules for guidance as to which are the most appropriate feasible silvicultural systems, operating methods and procedures which will carry out the intent of the Act.

WFMPs submitted to the Department will be subject to discretionary review by a multidisciplinary review team. If, during this review, it is determined that a significant adverse impact may result, pursuant to 898.1(c), the Director shall disapprove all plans which:

- (1) Do not incorporate feasible silvicultural systems, operating methods and procedures that will substantially lessen significant adverse impacts on the environment.
- (2) Would not meet the requirements of individual rules which provide a range of feasible alternatives through which to carry out the intent of the Act.
- (3) Meet the special conditions for disapproval set by the Board in 14 CCR 898.2.

The adopted regulations, when combined with the existing Forest Practice Rules as a whole along with CEQA Guidelines, provide adequate standards to evaluate impacts on the environment as proven by decades of THP and NTMP implementation. Standards for mitigation and/or minimization of adverse impacts are found throughout the Forest Practice Rules. Each WFMP shall be required to minimize/mitigate potential adverse impacts to the environment. The rules are designed to prevent significant adverse or cumulative impacts from timber harvesting operations and provide detailed and explicit instructions for permissible and prohibited actions that govern the conduct of on-the-ground timber operations. The major categories covered by the Rules include:

- Cumulative Impacts Assessment (14 CCR § 912.9 [932.9, 952.9]).
- Silvicultural Methods (14 CCR § 913 [933, 953] et seq.).
- Harvesting Practices and Erosion Control (14 CCR § 914 [934, 954] et seq.).
- Site Preparation (14 CCR § 915 [935, 955] et seq.).
- Watercourse and Lake Protection (14 CCR § 916 [936, 956] et seq.).
- Hazard Reduction (14 CCR § 917 [937, 957] et seq.).
- Fire Protection (14 CCR § 918 [938, 958] et seq.).

- Forest Insect and Disease Protection Practices (14CCR § 917.9 [937.9, 957.9] and 14CCR § 917.10 [937.10, 957.10]).
- Wildlife Protection Practices (14 CCR § 919 [939, 959] et seq.).
- Logging Roads and Landings (14 CCR § 923 [943, 963] et seq.).
- Determining the Significance of Impacts for Greenhouse Gas Emissions (14 CCR §15064.4)

When a Plan is submitted to the California Department of Forestry and Fire Protection (CAL FIRE) a multidisciplinary review team conducts the first review team meeting to assess the Plan. The review team normally consists of, but is not necessarily limited to, representatives of CAL FIRE, the Department of Fish and Wildlife (DFW), and the Regional Water Quality Control Board (WQ). The California Geological Survey (CGS) reviews plans for indications of potential slope instability and the State Archaeologist reviews plans for potential for adverse impacts to archaeological resources. The purpose of the first review team meeting is to assess the Plan and determine on a preliminary basis whether it conforms to the rules of the Board of Forestry. Additionally, questions are formulated which are to be answered by a field inspection team.

Next, a preharvest inspection (PHI) is normally conducted to examine the Plan area and associated activities. All review team members may attend, as well as other experts and agency personnel whom CAL FIRE may request. As a result of the PHI, additional recommendations may be formulated to provide greater environmental protection.

After a PHI, a second review team meeting is conducted to examine the field inspection reports and to finalize any additional recommendations or changes in the Plan. The review team transmits these recommendations to the RPF, who must respond to each one. The director's representative considers public comment, the adequacy of the registered professional forester's (RPF's) response, and the recommendations of the review team chair before reaching a decision to approve or deny a Plan. If a Plan is approved, logging may commence, pending submission of a Working Forest Harvest Notice. The WFMP has no expiration date, but may be cancelled. The Working Forest Harvest Notice has an effective period of one (1) year.

During operations, CAL FIRE periodically inspects the logging area for Plan and rule compliance. The number of the inspections will depend upon the plan size, duration, complexity, regeneration method, and the potential for impacts. The contents of the Plan and the rules provide the criteria CAL FIRE inspectors use to determine compliance. While CAL FIRE cannot guarantee that a violation will not occur, it is CAL FIRE's policy to pursue vigorously the prompt and positive enforcement of the Forest Practice Act, the forest practice rules, related laws and regulations, and environmental protection measures applying to timber operations on the non-Federally owned lands of the State. This enforcement policy is directed primarily at preventing and deterring forest practice violations, and secondarily at prompt and adequate correction of violations when they occur.

The general means of enforcement of the Forest Practice Act, forest practice rules, and

the other related regulations range from the use of violation notices which require corrective actions, to criminal proceedings through the Office of Administrative Hearings and the Board of Forestry and Fire Protection. Timber operator and RPF licensing actions can also be taken.

Plan review and assessment is based on the assumption that there will be no violations that will adversely affect water quality or watershed values significantly. Most forest practice violations are correctable and CAL FIRE's enforcement program assures correction. Where non-correctable violations occur, criminal action is usually taken against the offender. Corrective work is usually required by CAL FIRE. This is intended to offset non-correctable adverse impacts. Once a Working Forest Harvest Notice is completed, a completion report must be submitted certifying that the area meets the requirements of the Plan and rules. CAL FIRE inspects the completed area to verify that all provisions of the Plan and the rules have been followed including erosion control work.

Depending on the silvicultural system used, the stocking standards of the rules must be met immediately or in certain cases within five years. A stocking report must be filed to certify that the requirements have been met. If the stocking standards have not been met, the area must be planted annually until it is restored. If the landowner fails to restock the land, CAL FIRE may hire a contractor to complete the work and seek recovery of the cost from the landowner.

#### Avoidance of Conversion of Timberland

Incentivizing management of, by relieving these landowners of some of the costs and burdens of meeting the regulatory requirements designed for industrial timber companies, NTMPs and WFMPs help keep ranches and other non-industrial forest properties economically viable and make them less likely to be subdivided for housing or converted into golf courses or vineyards. Additionally, incentivizing unevenaged management may afford increased carbon sequestration, conservation of scenic values, and protection of water quality and fish and wildlife habitat.

Today, NTMPs cover over 300,000 acres of California forests. Raising the acreage limit to 15,000 acres through the WFMP will make hundreds of thousands of additional timberland acreage eligible for long-term, sustainable management... *Note: Currently, cumulative impacts are assessed on a plan by plan basis, which means, for these larger ownerships a smaller footprint is considered as compared to if the footprint of the entire ownership were considered. The WFMP will encourage comprehensive analysis of the ownership in relation to the cumulative impact assessment areas.*

Additionally, NTMP landowners who are close to the NTMP's 2,500 acreage limit will have an incentive to purchase additional timberlands by transferring to the WFMP. Some NTMP landowners near the 2,500 acre limit have already indicated that they plan to acquire more timberlands if the WFMP program is enacted.

In 2003, CAL FIRE issued a report on the NTMP program. The report explained that the NTMP program provides significant benefits to the State in a number of terms including societal benefits.

- The report states that "[r]etaining our non-industrial private forest lands in forest use provides tremendous...benefits, including retention of open space, protection of watersheds, water quality and forest soils, maintenance of diverse habitat for fish and wildlife, preservation of important cultural and historical sites, and promotion of recreational opportunities."
- "These benefits are all enhanced by the commitment of forest landowners to the long term stewardship and sustainable production requirements of a NTMP. On the broad statewide scale, the overarching public benefit is in encouraging owners of these small wooded parcels to take advantage of their rich forest soils, to enrich and improve their timber stands, to manage them sustainably into the future, and cumulatively retain that part of the state's rural, working landscape that characterizes California's private timberlands."
- The 2003 report concluded that "the NTMP program is meeting the uneven-aged management requirement of the Forest Practice Act...[and given] sufficient time to implement current NTMP management prescriptions, landowners will also be able to show that they are meeting the sustained yield requirement. Therefore, [Cal Fire] has determined that the NTMP program is improving California's timberlands and recommends that the program be continued."
- Additionally, the report recommended that the NTMP acreage limit be increased to bring more timberlands into the program. "This change would benefit both landowners and the state by providing an opportunity for these additional timberlands to be placed into a sustained yield and uneven-aged management regime." This proposed action essentially implements this recommendation by allowing larger nonindustrial timberland owners to participate in the WFMP program.

### Summary

In summary, the proposed action will not result in significant adverse environmental effects. The proposed action is an element of a comprehensive avoidance and mitigation program for commercial timber harvesting activities.