

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

EMERGENCY

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2019-0205-01E
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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2019 FEB -5 P 1:07

OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY Board of Forestry and Fire Protection	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Emergency Rulemaking to Implement Legislative Changes to the WFMP	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	1094, 1094.2, 1094.6, 1094.8, 1094.17, 1094.23
TITLE(S)	REPEAL
14	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	


4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			

7. CONTACT PERSON Eric Hedge	TELEPHONE NUMBER 916.653.9633	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) eric.hedge@bof.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 2/5/19
TYPED NAME AND TITLE OF SIGNATORY Eric Hedge, Regulations Coordinator, Board of Forestry and Fire Protection	

For use by Office of Administrative Law (OAL) only

1 **Emergency Rulemaking to Implement Legislative Changes to the Working Forest**

2 **Management Plan Statutes Pursuant to SB 901**

3 **Title 14, California Code of Regulations**

4 **Division 1.5, Chapter 4**

5 **Subchapter 7, Article 6.95**

6 **Amend: §§ 1094, 1094.2, 1094.6, 1094.8, 1094.17, and 1094.23**

7 **§ 1094 Rule Application.**

8 Where the abbreviation THP, the term Timber Harvesting Plan, or the word Plan is used in Chapter 4,
9 Subchapters 1 through 6 and Chapter 4.5 it shall also mean Working Forest Management Plan as
10 specified in PRC § 4597 et seq. In Subchapter 7 this equivalency will occur for all sections except

11 1032.7 through 1042 that are not referenced in this Article, or as otherwise specified. Working Forest

12 Landowners shall comply with all applicable regulatory requirements of the State Water Resources

13 Control Board and the appropriate RWQCB.

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

16 Section 4597, Public Resources Code.

17
18 **§ 1094.2. Definitions.**

19 The following definitions apply to this article:

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

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

1 layers, and are at least ten (10) acres in size. Functional characteristics of late succession forest stands
2 include large decadent trees, snags, and large down logs.

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

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

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

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

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

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

23 (i) "Uneven aged Management", pursuant to PRC § 4597.1(g), means forest management with the goal
24 of establishing a well-stocked stand of various age classes, which permits the periodic harvest of
25

1 individual or small groups of trees to achieve Sustained Yield objectives of the WFMP, and provide for
2 regeneration of trees and maintenance of age class structure.

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

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

9 (l) "Working Forest Management Plan (WFMP)", pursuant to PRC § 4597.1(j), means a management plan
10 for Working Forest Timberlands, with objectives of maintaining, restoring, or creating Uneven aged
11 Managed timber stand conditions, achieving Sustained Yield, and promoting forestland stewardship that
12 protects watersheds, fisheries and wildlife habitats, and other important values. Other important values
13 include maintained forest ecosystem processes and services. A Working Forest Management Plan may
14 include multiple Working Forest Landowners, but shall cover no more than 10,000 acres of timberland.
15 The Harvest Area of a Working Forest Management Plan must be contained within a single CALWATER
16 2.2 hydrologic area.

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

19
20 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference:
21 Sections 4597.1 and 4597.2, Public Resources Code.

22
23 **§ 1094.6. Contents of WFMP.**

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

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

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

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

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

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

10 (e) A United States Geological Survey quadrangle map or equivalent, of a scale not less than 2" per
11 mile. Additional maps may be required to show specific details, and may be planimetric. Color coding on
12 maps may be used if they are able to be reproduced in black and white and clearly show all details. A
13 legend shall be included indicating the meaning of the symbols used. See the District Rules for the
14 appropriate minimum mapping acreages. The map shall include:

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

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

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

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

22 (A) The classification of all roads as permanent, seasonal, temporary, or deactivated.

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

- 1 (C) Roads that provide access to rock pits and water drafting sites, and the location of water drafting
2 sites.
- 3 (D) Public roads within one-quarter (1/4) mile of the harvest area.
- 4 (E) The location of significant existing and potential erosion sites on all roads and landings pursuant to
5 14 CCR § 923.1(e).
- 6 (5) Location of proposed and existing landings outside the WLPZ that are greater than 1/4 acre in size or
7 whose construction involves substantial excavation.
- 8 (6) Location of area(s) of low, moderate, high or extreme erosion hazard ratings.
- 9 (7) Location of all Lakes and Watercourses with Class I, II, III, or IV waters.
- 10 (8) Location of known unstable areas or slides.
- 11 (9) Location of understocked areas and other areas not normally bearing timber to at least a 20-acre
12 minimum, or as specified in the District Rules.
- 13 (10) Location of boundaries of timber-site classes needed for determination of stocking standards to be
14 applied.
- 15 (11) The locations of logging roads and landings to be abandoned or deactivated.
- 16 (12) A soils map where available.
- 17 (13) Late Successional Forest Stands or Strata
- 18 (14) Location of unique areas including Coastal Commission Special Treatment Areas or other special
19 treatment areas and known locations of state or federally listed threatened, candidate, and endangered
20 species; rare plants; Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria
21 under 14 CCR § 15380(d).
- 22 (15) The location of all new permanent constructed and reconstructed and temporary logging road
23 watercourse crossings, including those crossings to be abandoned or deactivated.
- 24 (16) For all constructed and reconstructed logging roads and landings:
25

1 (A) Location of logging road grades greater than 15 percent for over 200 continuous feet or logging road
2 grades exceeding 20 percent.

3 (B) Locations of logging road failures on existing logging roads to be reconstructed.

4 (C) Location of logging roads across and landings on unstable areas or connected headwall swales.

5 (D) Location of excess material disposal sites on slopes greater than 40 percent or on active unstable
6 areas.

7 (E) Location of logging roads and landings across slopes greater than 65 percent for 100 lineal feet or
8 more.

9 (F) Location of logging roads and landings across slopes greater than 50 percent for 100 lineal feet or
10 more within 100 feet of the boundary of a WLPZ that drains toward the zoned watercourse or lake.

11 (17) Location of main ridge tops on the logging area suitable for fire suppression efforts that will require
12 the felling of snags.

13 (18) Location of any in lieu use of heavy equipment and location of tractor roads in watercourses, lakes,
14 WLPZs, marshes, wet meadows, and other wet areas, except where the WFMP has a standard
15 operating practice(s) pursuant to 14 CCR § 1094.6 (jj).

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

18 (1) Township, range, and section number(s) and approximate Plan acreage,

19 (2) County name(s),

20 (3) CALWATER v2.2 Planning Watershed number(s) and hydrologic area number,

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

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

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

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

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

3 (3) The type of projections or models used for projecting growth and yield appropriate for stand
4 conditions and estimated period of time to achieve LTSY.

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

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

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

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

20 (i) A description of the property and planned activities including:

21 (1) Acres of Stands, Strata and Major Stand Types.

22 (2) Projected growth.

23 (3) Existing stand types.

24 (4) Major Stand Types or Strata.

25 (5) Current projected growth by Strata.

1 (6) Silvicultural method(s) to be applied to Strata to achieve LTSY.

2 (7) Existing and projected timber volumes and tree sizes to be available for harvest.

3 (8) Projected frequencies of harvest.

4 (9) Silvicultural method(s) to be applied during the initial harvest(s) and projected future harvest(s), and
5 method(s) used in the projected growth and yield to achieve LTSY.

6 ~~(j) An erosion control implementation plan with information as required by 14 CCR § 923.1(e). This~~
7 ~~subdivision shall not apply to the extent that the RPF provides documentation to the Department that the~~
8 ~~WFMP is in compliance with similar requirements of other applicable provisions of law. All necessary~~
9 ~~information to demonstrate compliance with Article 12 (commencing with Section 923) of Subchapter 4~~
10 ~~of, Article 11 (commencing with Section 943) of Subchapter 5 of, and Article 12 (commencing with~~
11 ~~Section 963) of Subchapter 6 of, Division 1.5 of Title 14 of the California Code of Regulations, as~~
12 ~~applicable.~~

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

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

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

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

1 (m) Disclosure of:

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

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

9 (3) Information on the presence and known locations of individual Sensitive Species pursuant to 14 CCR
10 § 895.1 adjacent to or within the WFMP or their key habitats within the WFMP.

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

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

16 (A) Existing and Projected timber volumes and tree sizes to be available for harvest.

17 (B) Existing stocking levels, including but not limited to, average conifer and hardwood basal area
18 density and average conifer and hardwood trees per acre.

19 (C) Potential pest and protection problems.

20 (2) Management Unit history.

21 (3) Yarding methods to be used.

22 (o) For LTSY projections that project a reduction, over 100-year planning horizon or shorter planning
23 horizon until growth and yield are balanced, in quadratic mean diameter of trees greater than 12 inches
24 in diameter or a reduced level of inventory for a Major Stand Type or for a Stand or Strata that make up
25

1 greater than 10 percent and less than 25 percent of the WFMP area, an assessment shall be included
2 that does all of the following:

3 (1) Addresses state or federally listed threatened, candidate, and endangered species; rare plants;
4 Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR §
5 15380(d), that timber operations could adversely impact by potential changes to habitat.

6 (2) Addresses species habitat needs utilizing the "WHR system" described in "A Guide to Wildlife
7 Habitats in California," California Department of Fish and Wildlife, 1988, herein incorporated by
8 reference, or comparable typing system approved by the Director after consultation with the California
9 Department of Fish and Wildlife.

10 (3) Addresses constraints to timber management, the impact of the availability and distribution of
11 habitats on the ownership and within the cumulative impacts assessment area identified in the Plan in
12 relation to the harvest schedule, and the impacts of the planned management activities utilizing the
13 existing habitat as the baseline for comparison.

14 (4) Discusses and includes feasible measures planned to avoid or mitigate potentially significant adverse
15 impacts on fish or wildlife, which can include, but is not limited to, recruitment or retention of large down
16 logs greater than 16 inches in diameter and 20 feet in length, retention of trees with structural features
17 such as basal hollows, cavities, large limbs, or broken tops, retention of hardwoods, and retention or
18 recruitment of snags greater than 24 inches in diameter and 16 feet in height.

19 (p) A certification by the RPF preparing the Plan that the RPF or the RPF's Supervised Designee has
20 personally inspected the Plan area and has clearly explained to the timberland owner(s) that the Plan is
21 a long-term commitment that may require ongoing investments, including inventory sampling and logging
22 road maintenance, for the purpose of managing the Plan.

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

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

- 1 (2) Original projections or model calibration and accuracy.
- 2 (3) Episodic events including disease and drought caused tree mortality, windthrow, fire and
3 reforestation.
- 4 (r) A description of any cultural or historical resources known to exist with a description of possible
5 impacts and protection methods to be used during timber operations.
- 6 (s) Whether a timberland conversion certificate is in effect, its date of expiration, and its identification
7 number.
- 8 (t) Whether a timber harvesting plan is on file with the Department for any part of the Plan area and if a
9 Report of Satisfactory Stocking has been issued by the Department (show Plan number).
- 10 (u) A description of potential impacts to, and protections for, the quality and beneficial uses of water.
- 11 (v) A description of how the site preparation standards and stocking standards of the selected
12 silvicultural method, or that level of stocking above the minimum that will achieve long term sustained
13 yield (LTSY), will be met.
- 14 (w) A description of slash treatment for site preparation, fire protection and pest protection consideration.
- 15 (x) A description of the cumulative impacts analysis with supporting information, including impact(s) of
16 projected timber operations over the life of the Plan.
- 17 (y) The Department shall make available a copy of the California Forest Practice Rules in effect at the
18 time of WFMP approval.
- 19 (z) Explanation and justification for, and specific measures to be used for, tractor operations on unstable
20 areas, on slopes over 65%, and in areas where slopes average over 50% where the EHR is high or
21 extreme.
- 22 (aa) Explanation and justification for tractor operations in areas designated for cable yarding.
- 23 (bb) Winter period operating plan where appropriate.
- 24 (cc) Explanation and justification for use of landings, logging roads and skid trails in the protection zones
25 of Watercourses, Lakes, Wet Meadows, or Other Wet Areas.

1 (dd) Explanation and justification of any in-lieu or alternative practices for Watercourse and Lake
2 protection.

3 (ee) Explanation of alternatives to standard Rules for harvesting and erosion control.

4 (ff) Explanation and justification for landings that exceed the maximum size specified in the Rules.

5 (gg) A description of soils, surface erosion hazard, mass wasting erosion hazard, and erosion control
6 measures.

7 (hh) A description of the existing and proposed road system to be used in implementation of the WFMP,
8 including the diameter of any permanent culverts on Class I, II, or III Watercourses and the methods
9 used to determine the diameter.

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

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

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

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

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

23
24 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference:
25 Sections 4562.5, 4562.7, 4597.2 and 21000(g), Public Resources Code.

1 **§ 1094.8. Working Forest Harvest Notice Content.**

2 The Working Forest Harvest Notice shall be a public record. The Department shall post the Working
3 Forest Harvest Notice on the Department's Internet Website. All necessary deviations shall be approved
4 by the Director, pursuant to 14 CCR §§ 1094.23 and 1094.24, prior to submission of a Working Forest
5 Harvest Notice. The Working Forest Harvest Notice shall include all of the following information:

6 (a) Name, address, and telephone number of the Working Forest Landowner(s).

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

8 (c) Name, address, and telephone number of the timber owner(s) (if different from Working Forest
9 Landowner(s)).

10 (d) Name, address, telephone number and license number of the licensed timber operator(s) conducting
11 operations pursuant to the Working Forest Harvest Notice, and the person responsible for on the ground
12 supervision of timber operations (if different from the licensed timber operator(s)).

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

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

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

20 (h) A statement that state or federally listed threatened, candidate, and endangered species; rare plants;
21 Sensitive Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR §
22 15380(d), have not been discovered, or are not publicly disclosed in writing, within or adjacent to the
23 logging area, since the approval of the WFMP, unless the approved WFMP is amended pursuant to
24 either 14 CCR § 1094.23 or 14 CCR § 1094.24, consistent with 14 CCR § 1094.8(h)(2). After the initial
25 year the Plan is approved, prior to submitting the Working Forest Harvest Notice, a review shall be

1 conducted of the California Natural Diversity Database or another public database approved by the
2 Director after consultation with the Department of Fish and Wildlife for any species listed as state or
3 federally listed threatened, candidate, and endangered species; rare plants; Sensitive Species pursuant
4 to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d). When a Working
5 Forest Harvest Notice is filed after the initial year the Plan is approved, it shall comply with the following:

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

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

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

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

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

1 (2) Compliance with the Board Rules and the provisions of the FPA that were in effect at the time the
2 WFMP was approved will not result in any significant degradation to the beneficial uses of water,
3 including domestic water supplies, soil stability, forest productivity, or wildlife and shall protect all listed
4 species. This paragraph shall only apply if the RPF certifies that adherence to the current or modified
5 Board Rules would cause unreasonable additional expense, pursuant to PRC § 4583, to the Working
6 Forest Landowner(s).

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

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

9 (m) A statement that the Working Forest Harvest Notice conforms to the provisions of the approved
10 WFMP. If any aspects of the proposed operation are less protective than the current Board Rules and
11 the FPA, an explanation of the deviation and how resource values will be adequately protected.

12 ~~(n) An update erosion control implementation plan that reflects erosion control mitigation measures for the~~
13 ~~harvest area and any appurtenant roads if conditions have changed since the WFMP was approved on~~
14 erosion control mitigation measures for the Harvest Area and any Appurtenant Roads if conditions have
15 changed since the Working Forest Management Plan was approved. The updated erosion control
16 mitigation measures shall comply with Article 12 (commencing with Section 923) of Subchapter 4 of,
17 Article 11 (commencing with Section 943) of Subchapter 5 of, and Article 12 (commencing with Section
18 963) of Subchapter 6 of, Division 1.5 of Title 14 of the California Code of Regulations, and a certification
19 ~~from the RPF that no additional listings of water bodies to Section 303(d) of the Clean Water Act (33~~
20 ~~U.S.C. Sec. 1313(d)) list have occurred on the lands of the Plan. Additionally, the updated Erosion~~
21 ~~Control Implementation Plan for information within~~ the Working Forest Harvest Notice shall include
22 disclosure of erosion sites from skid trails, skid trail crossings, or any other structures or sites that have
23 the potential to discharge sediment attributable to timber operations into waters of the state resulting in
24 significant sediment discharge and violation of water quality requirements. ~~The updated erosion control~~

1 ~~implementation plan shall also include a schedule to implement erosion controls that prioritizes these~~
2 ~~significant existing erosion site(s).~~

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

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

7 (q) A verification that the LTO has been briefed by the RPF on the content of the Working Forest Harvest
8 Notice and intentions of implementation to comply with the Plan.

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

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

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

13 (u) On a USGS quadrangle or equivalent map, of a scale not less than 2" to the mile, the following
14 information pertinent to the Working Forest Harvest Notice shall be clearly provided. Additional maps
15 may be required to show specific details, and may be planimetric. Color coding on maps may be used if
16 they are able to be reproduced in black and white maps and clearly show all details. A legend shall be
17 included indicating the meaning of the symbols used. See the District Rules for the appropriate minimum
18 mapping acreages. Maps shall be updated to reflect current field conditions.

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

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

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

25 (4) Location of all roads to be used for, or potentially impacted by, timber operations. This shall include:

- 1 (A) The classification of all roads as permanent, seasonal, temporary, or deactivated.
- 2 (B) Roads and landings located in Watercourses, Lakes, WLPZs, Wet Meadows, or Other Wet Areas,
3 other than at road watercourse crossings.
- 4 (C) Roads that provide access to rock pits and water drafting sites, and the location of water drafting
5 sites.
- 6 (D) Public roads within one-quarter (1/4) mile of the harvest area.
- 7 (E) The location of significant existing and potential erosion sites on all roads and landings pursuant to
8 14 CCR § 923.1(e).
- 9 (5) Location of proposed and existing landings outside the WLPZ that are greater than 1/4 acre in size or
10 whose construction involves substantial excavation.
- 11 (6) Location of logging road failures on existing logging roads to be reconstructed.
- 12 (7) Location of all new permanent constructed and reconstructed, and temporary logging road
13 watercourse crossings, including those crossings to be abandoned or deactivated.
- 14 (8) Designate areas of low, moderate, high or extreme erosion hazard rating, if more than one (1) exists.
- 15 (9) Location of Lakes and Watercourse(s) with Class I, II, III or IV waters; and Wet Meadows and Other
16 Wet Areas including when operations are proposed pursuant to 14 CCR § 916.3(c).
- 17 (10) Location of known unstable areas or slides.
- 18 (11) Location of unique areas.
- 19 (12) Location(s) of standard operating practice(s) to be implemented within the area covered under the
20 Working Forest Harvest Notice.
- 21 (13) The locations of logging roads and landings to be abandoned or deactivated.
- 22 (14) For all constructed and reconstructed logging roads and landings, the location of excess material
23 disposal sites on slopes greater than 40 percent or on active unstable areas.
- 24 (15) Location of all tractor road watercourse crossings of classified watercourses except temporary
25 crossings of Class III watercourses without flowing water during timber operations at that crossing.

1 (16) Location for which heavy equipment use is proposed on unstable areas, or on areas for which
2 tractor use is proposed beyond the limitations of the standard Forest Practice Rules.

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

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

6 (x) A certification from the RPF that no additional listings of water bodies to Section 303(d) of the Clean
7 Water Act (33 U.S.C. Sec. 1313(d)) list have occurred on the lands of the WFMP since approval of the
8 WFMP.

9
10 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference:
11 Section 4597.11, Public Resources Code.

12
13 **§ 1094.17. Director's Determination.**

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

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

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

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

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

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

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

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

5 (4) The public comment period shall end twenty (20) working days after the completion of the final
6 interagency review of the Plan or until the requirement in subsection (a) is met, whichever is greater.

7 (5) After the final interagency review and public comment period has ended, the Department shall have
8 up to thirty (30) working days to review the public input, to consider recommendations and mitigation
9 measures of other agencies, to respond in writing to the issues raised, and to determine if the Plan is in
10 conformance with the applicable Board Rules and other applicable provisions of law.

11 (c) If after final interagency review the Director determines that the Plan is not in conformance with the
12 Board Rules or the FPA, the Director shall deny and return the Plan, stating the reasons for the denial
13 and advising the plan submitter of the person's right to a hearing before the Board pursuant to 14 CCR §
14 1054.

15 (d) If the Director does not act within the time periods provided in 14 CCR § 1094.17(b), the Director and
16 the timberland owner(s) submitting the WFMP shall negotiate and mutually agree upon a longer period
17 for the Director to review the Plan. If a longer period cannot be mutually agreed upon, the WFMP shall
18 be deemed denied and returned to the timberland owner(s) submitting the Plan.

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

20 (1) A timberland owner(s) whose Plan is denied pursuant to 14 CCR §§ 1094.17(c) or 1094.17(d) may
21 request, within thirty (30) working days from the receipt of the Plan, a public hearing before the Board.

22 The Board shall schedule a public hearing to review the Plan to determine if the Plan is in conformance
23 with the Board Rules and the FPA.

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

1 (3) If the Director's decision to deny the Plan is overturned by the Board, the Board shall prepare findings
2 and its rationale for overturning the decision, and return the Plan to the Department for approval by the
3 Director.

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

14
15 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference:
16 Section 4597.6, Public Resources Code.

17
18 **§ 1094.23. Substantial Deviations.**

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

23 (1) The substantial deviation is in compliance with the current Board Rules and provisions in the FPA.
24
25

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

4 (A) The adherence to new or modified Board Rules would cause unreasonable additional expense,
5 pursuant to PRC § 4583, to the Working Forest Landowner(s).

6 (B) Compliance with the Board Rules and provisions in the FPA that were in effect at the time the WFMP
7 was approved will not result in any significant degradation to the beneficial uses of water, soil stability,
8 forest productivity, or wildlife.

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

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

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

19 (2) Enlargement of the WFMP area.

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

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

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

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

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

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

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

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

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

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

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

11 dressing of the travel surface and removal of vegetation to allow for vehicle passage.9) Use of any

12 logging roads not shown in the Plan which would affect the key habitat, not previously discussed in the

13 Plan, of: state or federally listed threatened, candidate, and endangered species; rare plants; Sensitive

14 Species pursuant to 14 CCR § 895.1; and species that meet the criteria under 14 CCR § 15380(d).

15 (10) Enlargement of landings where such enlargement was not justified in the Plan.

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

17 (12) Any downgrading of watercourse classification.

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

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

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

24 Sections 4582.7, 4597.6, 4597.7 and 4597.8, Public Resources Code.

Board of Forestry and Fire Protection

**Notice of Proposed Emergency Action,
(pursuant to GOV § 11346.1)**

**“Emergency Rulemaking to Implement Legislative Changes to the Working Forest
Management Plan Statutes Pursuant to SB 901”**

Notice Date: January 28, 2019

The Board of Forestry and Fire Protection (hereinafter “Board”) has adopted emergency regulations to modify Working Forest Management Plan regulations pursuant to Senate Bill No. 901 (SB 901) relating to the Forest Practice Act (commencing with Public Resources Code Section 4511) in accordance with the authority under SB 901. This action is being taken in accordance with Government Code (GOV) §§ 11346.1, 11346.5 (2) through (6) inclusive, and 11349.6. The Board adopted the emergency regulation at their regular meeting scheduled on January 23, 2019.

If you wish to comment on the adopted emergency regulations, you must submit the comment directly to the Office of Administrative Law (hereafter “OAL”) within **five (5) calendar days** of OAL’s posting of the proposed emergency regulations on the OAL web site. You may submit comments on the adopted emergency regulations to:

Mail:

OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, California 95814

Fax:

(916) 323-6826

E-mail:

staff@oal.ca.gov.

OAL will accept all comments submitted by the specified deadline.

When you submit a comment to OAL, you must also submit a copy of your comment to the rulemaking agency's specified contact person provided below.

Mail:

Eric Hedge
Regulations Coordinator
Board of Forestry and Fire Protection
P.O. Box 944246

Sacramento, CA 944244-2460

Fax:

(916) 653-0989

E-mail:

publiccomments@BOF.ca.gov

GOV § 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to OAL, the adopting agency provide a notice of the proposed emergency action with the agency. After submission of the proposed emergency to the OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in GOV 11349.6

These regulations will likely be submitted to the Office of Administrative Law on or after February 5, 2019. **If the regulation is submitted to OAL on that date, the public comment period closes on February 11, 2019.**

OAL will confirm that the agency has received the comment. Pursuant to Title 1, California Code of Regulations, §§ 55(b)(1) through (4), the comment must state that it is about an emergency regulation and include the topic of the emergency.

The Board is not required and, in this instance, not likely to respond to comments submitted. However, should the Board choose to respond, it must submit its response to OAL within **eight (8) calendar days** following the date of submission of the proposed emergency regulation to OAL, unless specific exceptions are applicable. [Title 1 CCR § 55].

Pursuant to **GOV § 11346.1(a)(2)(A)**, the specific rule text associated with the proposed action immediately follows this notice.

Pursuant to **GOV § 11346.1(b)(2)**, following is a description of the facts demonstrating the existence of an emergency and the need for immediate action, and demonstrating, by substantial evidence, the need for the proposed regulation to effectuate the statute being implemented, interpreted, or made specific and to address only the demonstrated emergency.

On September 21, 2018, the Governor signed Senate Bill No. 901 (Chapter 626, 2018) (SB 901), which was promptly filed with the Secretary of State and became effective on January 1, 2019. The bill addressed various forest health and management issue with the stated intent of "...improv[ing] forest health and reduc[ing] the risk and intensity of wildfires, thereby protecting the state from loss of life and property damage, reducing greenhouse gas emissions, enhancing ecosystem function, improving wildlife habitats, increasing water supply, improving water quality, reducing the amount of money the state must spend on wildfire response and rebuilding, and increasing carbon sequestration in [the state's] forests."

The bill identifies several urgent matters related to forest health and management, including declarations that “[i]t is the policy of the state to encourage prudent and responsible forest resource management by increasing the pace and scale of fuel reduction, thinning, and the use of prescribed fire as directed by Governor Brown’s Executive Order B-52-18”, and that “California’s small timberland owners find it difficult to practice sustainable forest management on their private family ownerships”. SB 901 addresses these findings through various statutory schemes, including revisions to existing permitting documents and mechanisms which are available to the small, nonindustrial landowners throughout the state.

Within SB 901, SEC. 46, the legislature required that the regulations which the Board adopts “..pursuant to the provisions of this act relating to the Z’berg-Nejedly Forest Practice Act of 1973, established in Article 1 (commencing with Section 4511) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code, shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code”, and goes on to further find that the “...**adoption of the initial regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.**”¹ (Emphasis added.)

The Board concurs with this finding that the adoption of regulations related to these provisions is an emergency and are necessary for the preservation of the public peace, health, safety, and general welfare in the state. The Board adopted these as emergency regulations pursuant to the authority under SEC. 46 of SB 901.

As further background, SB 901 amended sections of the Public Resources Code, including sections of the Z’berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511) (Forest Practice Act). The sections amended by SB 901 included Sections 4597, 4597.1, 4597.2, and 4597.6, which are part of the Working Forest Management Plan program, Article 7.7 of the Forest Practice Act.

¹ SEC. 46 of SB 901 states, in its entirety: “The regulations that the State Board of Forestry and Fire Protection adopts pursuant to the provisions of this act relating to the Z’berg-Nejedly Forest Practice Act of 1973, established in Article 1 (commencing with Section 4511) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code, shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the initial regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. The board may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted or readopted under this section shall remain in effect until revised by the board.”

Pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. 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 Forest Practice Act, the Board adopted regulations to create the Working Forest Management Plan (WFMP) program, as mandated by the legislature and administration through AB 904 (2016), which chaptered and subsequently amended PRC §§ 4593.10 and 4597 et seq. The Working Forest Management Plan (WFMP) program is a long-term sustainable forest management permitting mechanism available to nonindustrial landowners (with a maximum number of acres of timberland) if they commit to uneven aged management and sustained yield.

Pursuant to **GOV § 11342.545**, this situation calls for immediate action to avoid serious harm to the public peace, health, safety, and general welfare, as expressly determined by the legislature in SB 901. SB 901 addressed various forest health and management issues, including the difficulties facing small timberland owners in practicing sustainable forest management, which prevents them from improving forest health and reducing the risk and intensity of wildfires, helping protect the state from loss of life and property damage, reducing greenhouse gas emissions, enhancing ecosystem function, improving wildlife habitats, increasing water supply, improving water quality, reducing the amount of money the state must spend on wildfire suppression and rebuilding, and increasing carbon sequestration in California's forests. In addition, the difficulties facing small timberland owners impede their ability to practice prudent and responsible forest resource management and to increase the pace and scale of fuel reduction, and management of timberland, thereby limiting their ability to act consistently with state policy. The Board was compelled to respond to the evidence, as described above. These regulations are immediate and necessary to, in part, ease the difficulties facing small timberland owners in practicing sustainable forest management and to improve forest health and management. Further, SB 901 expressly requires that the regulations adopted by the Board be adopted as emergency regulations.

The Board is proposing action to amend 14 CCR §§ 1094, 1094.2(k), 1094.2(l), 1094.6(f)(3), 1094.6(j), 1094.8(n), 1094.17(a)(2), 1094.17(a)(3) and 1094.23(c)(14).

Pursuant to **GOV CODE § 11346.1(b)(2)**, following is the list of each technical, theoretical and empirical study, report, or similar documents, if any, upon which the Board relied to make the "emergency" finding:

Senate Bill No. 901, Chapter 626, signed by Governor Brown on September

21, 2018.

Governor issued Executive Order "B-52-18" issued May 10, 2018.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 11346.5(a)(2)** (the reference to the authority(s) under which the regulation is proposed and a reference(s) to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific).

14 CCR § 1094 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference: Sections 4597 Public Resources Code.

14 CCR § 1094.2 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference: Sections 4597.1 and 4597.2, Public Resources Code.

14 CCR § 1094.6 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference: Sections 4562.5, 4562.7, 4597.2 and 21000(g), Public Resources Code.

14 CCR § 1094.8 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference: Sections 4597.11, Public Resources Code.

14 CCR § 1094.17 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference: Sections 4597.6, Public Resources Code.

14 CCR § 1094.23 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code. Reference: Sections 4582.7, 4597.6, 4597.7 and 4597.8, Public Resources Code.

Pursuant to **1 CCR § 20(c)(1)**, no documents are incorporated by reference in these regulations.

The Board had available the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office in Sacramento, California.

Pursuant to **1 CCR § 48**, the notice required by Government Code section 11346.1(a) shall contain the following or substantially similar statement:

"Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory

action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6."

Pursuant to **1 CCR §50(a)(5)(A)** and **GOV § 11346.1(a)(2)** the Board provided a five working-day notice. The proposed action was, at a minimum, posted on the Board's website (pursuant to **GOV § 11346.4(a)(6)**), sent to the Board mailing list (pursuant to **GOV § 11346.4(a)**) and widely distributed via email (pursuant to **GOV § 11340.85**) at least five working days prior to being submitted to the Office of Administrative Law.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 11346.5(a)(3)**

INFORMATIVE DIGEST

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

Pursuant to PRC §4551 the Board is authorized to adopt forest practice rules and regulations to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources, including, but not limited to, streams, lakes, and estuaries.

Pursuant to PRC §4551.5 the rules and regulations that the Board is authorized to adopt include those that apply to the conduct of timber operations and for the preparation of timber harvesting plans.

Pursuant to PRC §4552 the rules and regulations that the Board is authorized to adopt shall be based upon a study of the factors that significantly affect the present and future condition of timberlands and shall be used as standards by persons preparing timber harvesting plans.

Pursuant to PRC §4553 the rules and regulations that the Board is authorized to adopt shall be continuously reviewed and may be revised, and the Board shall consult with and evaluate the recommendations of concerned federal, state, and local agencies, and other public and private organizations.

Pursuant to this statutory authority, the Board amended 14 CCR §§ 1094, 1094.2, 1094.6, 1094.8, 1094.17, and 1094.23, in accordance with the provisions of the statutes.

The effect of the proposed action is to provide small timberland owners who qualify as working forest landowners with a revised permitting process and requirements to allow them to practice sustainable forest management on their timberland. The proposed action will expressly allow multiple landowners to submit a joint Working

Forest Management Plan (PRC § 4597.1), reduce the maximum number of acres within a single WFMP to 10,000 (PRC § 4597.1). In addition, the proposed action will revise the requirement that the WFMP include provisions to address significant sediment discharge to watercourses, including the requirement of an erosion control implementation plan (ECIP), and instead require the WFMP to comply with the applicable forest practice road rules (PRC § 4597.2).² Furthermore, the proposed action will limit the Harvest Area of a WFMP to a single hydrologic area, as identified by CALWATER 2.2.

The primary benefit of the proposed action is help reduce the difficulties facing small timberland owners in practicing sustainable forest management, which will then allow them to improve forest health, including reducing the risk and intensity of wildfires, protecting the state from loss of life and property damage, reducing greenhouse gas emissions, enhancing ecosystem function, improving wildlife habitats, increasing water supply, improving water quality, reducing the amount of money the state must spend on wildfire response and rebuilding, and increasing carbon sequestration in California's forests, thereby furthering state policy.

The proposed action does not differ substantially from an existing comparable federal regulation or statute.

The Board performed a search of existing regulations and concluded that the proposed regulation is not inconsistent or incompatible with existing state regulations.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 1346.5(a)(4)**.

There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 11346.5(a)(5)**.

The Board finds that the proposed regulation does not impose a mandate on local agencies or school districts.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 1346.5(a)(6)**.

No costs or savings to any State agency are expected.

The proposed regulation does not impose a reimbursable cost to any local agency or school district (under Part 7 (commencing with Section 17500 of

² Specifically, the amended language in PRC § 4597.2, subdivision (d), states: "All necessary information shall demonstrate compliance with Article 12 (commencing with Section 923) of Subchapter 4 of, Article 11 (commencing with Section 943) of Subchapter 5 of, and Article 12 (commencing with Section 963) of Subchapter 6 of, Division 1.5 of Title 14 of the California Code of Regulations"

Division 4)). There are no other nondiscretionary costs or savings imposed on local agencies. There are no costs or savings in federal funding to the State.

The Board took action to authorize emergency rulemaking based on the authority granted to it by the legislature pursuant to SB 901 and by the findings provided pursuant to GOV § 11346.1(b)(2). The problem that the Board has addressed in the proposed action is described in the findings provided pursuant to GOV § 11346.1(b)(2), which findings were adopted by the legislature and with which the Board concurs.

The purpose of the proposed action is to allow multiple landowners to join together to submit a single Working Forest Management Plan (PRC § 4597.1), reduce the maximum number of acres within a single WFMP to 10,000 (PRC § 4597.1), require the harvest area to be within a single defined hydrologic area (PRC § 4597.1), and revise the requirement for the WFMP to include provisions, including an ECIP, to address significant sediment discharge to watercourses by replacing these with the requirement to comply with the applicable forest practice road rules under 14 CCR § 923 (PRC § 4597.2), including clarifying the related erosion control mitigation measures required in the Working Forest Harvest Notice. In addition, the purpose is to make other clarifying changes necessitated by SB 901.

Amend 14 CCR § 1094

The purpose of this amendment is to expressly require compliance with applicable regulatory requirements of the State Water Resources Control Board and appropriate Regional Water Quality Control Board. This amendment is necessary for clarity and to ensure consistency with the amendment to PRC § 4597 under SB 901.

Amend 14 CCR § 1094.2(k)

The purpose of this amendment is to revise the definition of "Working Forest Landowner" to reduce the maximum number of acres of timberland owned from 15,000 to 10,000. This amendment is necessary for clarity and to ensure consistency with the amendment to PRC § 4597.1(i) under SB 901.

Amend 14 CCR § 1094.2(l)

The purpose of this amendment is to revise the definition of "Working Forest Management Plan (WFMP)" to allow multiple Working Forest Landowners under a single WFMP of no more than 10,000 acres, and to require the Harvest Area to be within a single CALWATER 2.2 hydrologic area. This amendment is necessary for clarity and to ensure consistency with the amendment to PRC § 4597.1(j) under SB 901.

Amend 14 CCR § 1094.6(f)(3)

The purpose of this amendment is to require the specific hydrologic area number as part of the Plan area description. This amendment is necessary for clarity and to ensure consistency with 14 CCR 1094.2(l) and the amendment to PRC § 4597.1(j) under SB 901.

Amend 14 CCR § 1094.6(j)

The purpose of this amendment is to remove from the required contents of a WFMP an ECIP or documentation of compliance with similar requirements, and to require documentation to demonstrate compliance with the applicable forest practice road rules, as specified. This amendment is necessary for clarity and to ensure consistency with the amendment to PRC § 4597.2(d) under SB 901.

Amend 14 CCR § 1094.8(n)

The purpose of this amendment is to remove from the required contents of a Working Forest Harvest Notice (WFHN) an updated ECIP and its contents if conditions have changed since the WFMP was approved, and to specifically require any updated erosion control mitigation measures to comply with the applicable forest practice road rules, as specified.

As discussed within the necessity statement related to amendments to 14 CCR § 1094.6(j), the requirement to include an ECIP within a WFMP has been eliminated within statute and regulation (within this proposed action) and is succeeded by a requirement to document and demonstrate compliance with the applicable forest practice road rules. However, there remains a regulatory requirement within the WFHN content to provide an update to an ECIP (14 CCR § 1094.8(n)). Given that the ECIP is no longer a requisite component of the WFMP, the Board has eliminated the requirement to provide an update to that document within the WFHN. In addition, the elimination of the ECIP and inclusion of the forest practice road rules by SB 901 necessitates further action by the Board to provide regulatory clarification.

The amendment to PRC § 4597.2(d), removing the ECIP and requiring compliance with the applicable forest practice road rules, requires similar amendments to § 1094.8(n) since it and its authorizing statute, PRC § 4597.11(l), address an *update* to the erosion control mitigation measures under the WFHN. The forest practice road rules contain technical and operational information related to erosion control and mitigation, including identification and disclosure of significant existing and potential erosion sites, as well as planning and treatment for those sites. This update to the erosion control mitigation measures required by PRC § 4597.11(l) therefore must include the erosion control information included in the forest practice road rules pursuant to the amendment to PRC § 4597.2(d) in SB 901. This amendment is necessary for clarity and to ensure consistency with PRC § 4597.11(l), the amendment to PRC § 4597.2(d) under SB 901, and 14 CCR § 1094.6(j).

The RPF certification regarding additional listings of water bodies was moved to a new separate subdivision, 14 CCR § 1094.8(x) (see discussion below), as this certification is unrelated to the rest of 14 CCR § 1094.8(n), and the Board determined that it was necessary for clarity and to ensure consistency with PRC § 4597.11(l), the amendment to PRC § 4597.2(d) under SB 901, and 14 CCR § 1094.6(j).]

Adopt 14 CCR § 1094.8(x)

The purpose of the adoption of this provision is to move the existing certification requirement in 14 CCR § 1094.8(n), which requires an RPF certification regarding additional listings of water bodies since the approval of the WFMP, to a new, separate subdivision. The certification is unrelated to the other subject matter in 14 CCR § 1094.8(n) and is more appropriate in a separate provision. This change is necessary for clarity, both with respect to the certification and the other the rest of § 1094.8(n), and to ensure consistency with PRC § 4597.11(l).

Amend 14 CCR §§ 1094.17(a)(2) and (a)(3)

The purpose of this amendment is to revise the time period for public comment to reflect the statutory reduction in the maximum number of acres of timberland owned within a WFMP from 15,000 to 10,000. The change to § 1094.17(a)(2) specifies the time period applicable for a WFMP between 5,000 and 10,000 acres. 14 CCR § 1094.17(a)(3) is deleted because a WFMP exceeding 10,000 acres is no longer statutorily permitted. These amendments are necessary for clarity and to ensure consistency with the amendment to PRC § 4597.1(i) under SB 901.

Amend 14 CCR §§ 1094.23(c)(14)

The purpose of this amendment is to change the actions that are presumed to be substantial deviations to an approved WFMP. This amendment deletes the provision governing changes to erosion control implementation plans. With the amendment to PRC § 4597.2(d) under SB 901, which removed the requirement for the erosion control implementation plan, there is no longer a requirement for an erosion control implementation plan, and thus this provision lacks a logical connection to the regulatory scheme and lacks statutory authority. This amendment is necessary for clarity and to ensure consistency with the amendment to PRC § 4597.2(d) under SB 901.

CEQA COMPLIANCE

The Board has determined that this emergency rulemaking does not necessitate a subsequent or supplemental environmental analysis under the California Environmental Quality Act (CEQA) because none of the events under Public Resources Code § 21166 has occurred. The incremental changes comprising this emergency rulemaking do not create a new significant environmental impact or a substantial increase in the severity of the impacts previously identified in the originally-adopted WFMP regulations and environmental analysis, as contained in the rulemaking files submitted to OAL on April 20, 2017, and August 25, 2017. Nor have circumstances changed substantially or new information become available that necessitates a subsequent or supplemental CEQA analysis. The particular changes under this rulemaking are addressed below.

The amendment to 14 CCR § 1094, requiring compliance with applicable regulatory requirements of the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Board (RWQCB), imposes no additional requirements on Working Forest Landowners and thus creates no new significant environmental impact or a

substantial increase in the severity of impacts previously identified; the regulatory requirements of the SWRCB and RWQCB apply even without this express requirement.

The amendments to 14 CCR §§ 1094.2(k) and 1094.2(l), revising the definition of “Working Forest Landowner” and “Working Forest Management Plan” to reduce the maximum number of acres owned, and within a WFMP, from 15,000 to 10,000, creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified, as this change will, if anything, have the effect of *decreasing* the potential environmental impacts. The Board’s analysis of the maximum size of a WFMP and the comments received and Board’s responses in the Final Statement of Reasons (FSOR) in the Administrative Record, for example Comment and Response W1-2, pages 59-63, and Comment and Response W1-A27-1, pages 349-360, substantiate this determination. The amendment to § 1094.2(l) also specifies that the Harvest Area must be contained within a single CALWATER 2.2 hydrologic area. This change creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified, as this change merely ensures that the Harvest Area does not span multiple hydrologic areas.

The amendment to 14 CCR § 1094.2(l) further provides that a WFMP may include multiple Working Forest Landowners. This amendment creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified, as the originally-adopted WFMP regulations and environmental analysis contemplated and permitted multiple landowners in a single WFMP.³ Thus, this amendment simply makes express in the regulation a program component already addressed, and not a change thereto.

The amendment to 14 CCR § 1094.6(f)(3), requiring identification of the hydrologic area number within the Plan description, creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified, as this change merely requires additional geographical information with respect to the Plan area.

The amendment to 14 CCR § 1094.6(j), removing the requirement for an ECIP and requiring compliance with applicable forest practice road rules, creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified, as this change simply varies the mechanism by which information related to the prevention or mitigation of erosion is disclosed. The Board’s initial analysis of this issue included the evaluation of alternative methods related to disclosure of this information and found that any documentation which demonstrated compliance with 14 CCR § 923.1(e) (or other similar or applicable provisions of law) was appropriate for providing the information required to make a determination on potential impacts. The Board’s analysis of the Road Rules within the ISOR (for example pages 2043, 2046, 2058, 2124) and the numerous comments received and Board’s

³ See Comment and Responses: W1-4, pages 67-69; W1-10, pages 73-74; W1-11, page 74; W1-14, pages 77-80; W1-17, pages 81-82; W1-18, pages 82-84; W1-19, page 84; W1-30, pages 93-94; W1-31, page 95; W1-83, pages 151-153; W1-86, pages 155-158; W2-1, pages 162-163, W2-5, pages 167-170.

responses in the FSOR in the [certified Administrative Record]⁴, indicate that the requirement to demonstrate compliance with the Road Rules is substantially similar and requires greater disclosure than a requirement to demonstrate compliance with a portion of the Road Rules.

The amendment to 14 CCR § 1094.8(n), removing the requirement in the WFHN for an updated ECIP and requiring compliance with applicable forest practice road rules, creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified, as this change simply varies the mechanism by which information related to the prevention or mitigation of erosion is updated. The Board's initial analysis of this issues included the evaluation of alternative methods related to updating this information and found that compliance with 14 CCR § 923.1(e) (or any other similar or applicable provisions of law) would achieve the level of disclosure and protection necessary to avoid environmental impact. The Board's analysis of the Road Rules within the ISOR (for example pages 2043, 2046, 2058, 2124) and the numerous comments received and Board's responses in the FSOR in the Administrative Record², indicate that the requirement to demonstrate compliance with the Road Rules is substantially similar and requires greater disclosure than a requirement to demonstrate compliance with a portion of the Road Rules.

The adoption of 14 CCR § 1094.8(x), requiring an RPF certification regarding water bodies, is merely an editorial change moving existing language in § 1094.8(n) to a new and separate provision. Thus, this creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified.

The amendment to 14 CCR §§ 1094.17(a)(2) and (a)(3), clarifying the time period for public comment, merely ensures consistency with the amended maximum number of acres within a WFMP. This change creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified.

The amendment to 14 CCR §§ 1094.23(c)(14), deleting a substantial deviation relating to the ECIP, ensures consistency with the amendment deleting an ECIP, and thus creates no new significant environmental impact or a substantial increase in the severity of impacts previously identified.

Further supporting this determination, as discussed in the Initial Statement of Reasons to the original rulemaking for the WFMP regulations,⁵ the original WFMP regulatory action constitutes an element of a comprehensive avoidance and mitigation program for commercial timber harvesting activities. The Board's rulemaking process has been certified by the Secretary of Resources as meeting the requirements of PRC § 21080.5. The Board's Forest Practice Rules, along with the CAL FIRE's oversight of rule compliance, function expressly to prevent adverse environmental impacts, contain a

⁴ See Comment and Responses: W1-3, pages 63-67; W1-7, pages 72-73; W1-86, pages 155-158; W2-2, pages 164-166; W2-3, page 166; W2-14, pages 181-182; W3-1, pages 182-183.

⁵ See ISOR, page 5247 of the Administrative Record; see also Board Response to common significant adverse impact theme, FSOR, pages 51-52; 14 CCR §§ 1094.18 and 1037.5 (interdisciplinary review team to review proposed WFMP's and evaluate potential impacts on the environment).

comprehensive cumulative impacts analysis, and contain a combination of avoidance and mitigation measures to reduce the risk of potential impacts. The incremental changes within this emergency rulemaking do not diminish the comprehensive nature of environmental protection existing within the WFMP program.

In short, the incremental environmental impacts, if any, from the changes within this rulemaking do not create a new significant impact or substantially increase the severity of the impacts previously identified in the original WFMP rulemaking and environmental analysis.