# INITIAL STATEMENT OF REASONS

## ROAD MANAGEMENT PLAN, 2006

[Notice Publication July 28, 2006]

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

**Amend:**

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| § 895 | Abbreviations Applicable Throughout the Chapter |
| §1037 | THP Preharvest Inspection-Filing Return |

**Adopt Permanently:**

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|---|---|
| § 1093.1 | Road Management Plan |
| § 1093.2 | Definitions |
| § 1093.3 | Guidelines for Orderly Evaluation of Activities Proposed by an RMP. |
| § 1093.4 | Content of Road Management Plan |
| § 1093.5 | Limitation on Information Requirements |
| § 1093.6 | RMP Effective Period |
| § 1093.7 | Review of Road Management Plan-Notice of Filing |
| § 1093.8 | Amendments |
| § 1093.9 | Change of Ownership |

The State Board of Forestry and Fire Protection (Board) is proposing changes to the Forest Practice Rules (FPRs) for development of a *Road Management Plan (RMP)* as a supplement to the Timber Harvest Plan (THP) process. The RMP provides a means for addressing long-term issues of sustained timber production and cumulative watershed effects from the transportation system on fish, wildlife, the beneficial uses of water, and watersheds on a landscape basis. A RMP specifies measures to be applied to a forest transportation system to protect, maintain, and enhance the beneficial uses of water and other environmental resources consistent with the objectives of the timberland owner. Among the general ways the RMP contributes to the beneficial uses of water is the following:

- The RMP provides a regulatory opportunity for the California Department of Forestry and Fire Protection (Department), other responsible agencies, and timberland owners to identify site-specific conditions that are impacting the beneficial uses of water, including anadromous salmonid protection, within the broader context of a logical hydrologic or ownership unit.

- The RMP promotes consultation between the responsible agencies and the timberland owner to address specific limiting factors for anadromous salmonids and other beneficial uses of water related to roads within an evaluation area.

- The RMP provides timberland owners the opportunity to establish a landscape level framework for addressing long-term issues of sustained timber production, and cumulative effects analysis that includes the impacts of transportation systems on fish, wildlife, the beneficial uses of water, and watersheds.

The proposed regulation includes specific contents for the RMP. These include a goals and objectives element (long term plans and desired future conditions), an evaluation element (history, existing conditions, and constraints), an operational element (construction and use), a verification element (tracking and monitoring), and an adaptive management element (goal comparison and revisions).

The RMP may be submitted by a timberland owner(s) for the Department Director's review and approval as supplemental information to support review of a THP or other Plan defined in the Forest Practice Rules.

In summary, the RMP provides the timberland owner and agencies a voluntary process to evaluate and reach solutions on limiting factors for anadromous fisheries and other beneficial uses of water. It provides detailed information to improve the regulatory review of harvest plans with roads and improves watershed level impact analysis.

## PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS (*applicable to all proposed rule subsections)*

### *Watershed impairments and anadromous salmonids impacts related to roads*

Watershed impairments in forested landscapes, and the effects of these impairments on anadromous salmonids habitats, remain one of the great forestry related concerns among scientists, citizens and regulators in California. Roads have continually been identified as one of the main contributing factors of water quality impacts. The ability of a watershed to produce juvenile salmon is largely a function of the quality and quantity of stream habitat conditions, including water quality and quantity. Important elements of water quality include water temperature within a suitable range that corresponds with migration, egg development, growth of young, and the production of invertebrates as food sources. The extent to which water quality and availability issues influence estimated annual escapement of adults and numbers of juveniles produced is not readily separated from other environmental conditions. However, water quality and quantity are clearly some of the most fundamental measures of habitat suitability and ultimately salmonid production.

Regional Water Quality Control Boards have designated several water bodies with salmon populations as impaired based on water quality concerns that arise from unacceptable levels of sediment load, elevated water temperature, pollutant occurrence water temperatures. Eight water bodies within the range of the Southern Oregon/Northern California Coast population of coho salmon have been designated as impaired by the State Water Resource Control Board and Environmental Protection

Agency under section 303(d) of the Federal Clean Water Act. The primary basis for listing the Mattole, Eel, Van Duzen, Mad, Shasta, Scott, Klamath, and Trinity River basins as impaired is excessive sediment load and elevated water temperatures.

Annual estimates of salmon population levels exhibit marked variation due to a large number of interacting environmental conditions. These include specific stream habitat availability to accommodate freshwater life history requirements, water quality and availability, rainfall pattern as an influence on stream flow and out migration rate of juveniles, wildlife predation, removal of primary valley floor spawning, fishing, oceanic conditions during early residence, wildfire, level of commercial and recreational harvest, and historic and current land use activities (e.g., agriculture, timber management, and urbanization). These environmental and other conditions have resulted in estimated long-term downward trends in populations for specific salmon stocks and for some, formal listing under the California and/or Federal Endangered Species Act. Wildlife and Fisheries agencies have been asked on several occasions for specific data on general and specific fisheries populations but none has been provided. However, best indications and estimates do conclude a significant population decline in recent years.

The Board recognizes the relationship between forest transportation systems and the potential for adverse cumulative watershed impacts such as sedimentation (Critical Site Rice, October 1999 and the Scientific Review Panel, June 1999). This awareness has been demonstrated during a Watershed Assessment/Evaluation workshop at Blodgett Experimental Forest in April 2000; through the Scientist Review Panel Report, 1999; Monitoring Study Group Reports; State Department of Fish and Game Coho Recovery Plan 2004; Dunn report, 2003 on cumulative watershed effects, and through other information. Through these studies the Board determined that roads and landings are one of the biggest sources of sediment adversely impacting listed species and other watershed beneficial uses.

The Board is confident that many of the recent rules, including Threatened and Impaired (T&I) Watershed (14 CCR § 916.9, 936.9, 956.9), 2003, are reducing the impacts of sediment to listed species. These rules set forth regulations that enable the protection of watercourses designated as having impaired water quality values. These regulations were intended to move from a project by project analysis of impacts and mitigation development to a watershed level approach.

In addition to these rules, the Board's has established an interagency task group to conduct an in-depth review of the direction being taken by the Board on roads and watershed level assessment of water quality impacts or benefits. One of the recommendations returned to the Board in 2003 was to pursue development of a RMP as part of THPs. Such a plan would develop on-site specific information and practices designed for implementation that would protect the public trust resources, including water quality. The development of an RMP represents the continued effort of the Board in the establishment of watershed level evaluation, targeted at the maintenance and restoration of beneficial uses of water which includes a healthy population of anadromous salmonids.

Use of an RMP for supplemental information for a Timber Harvest Plan would provide efficiencies to plan applicants and the regulating agencies while providing increased resource protection.

- Plan applicant efficiencies are accomplished presenting relevant information at a landscape level management plan early and transparently in the review process. This disclosure may aid regulatory review, likely expediting the review process.

- Agency efficiencies are realized as a comprehensive and predictable course of actions can be evaluated.

- Resource protection is improved, as planned actions related to roads can be cumulatively evaluated resulting in better disclosure and decision-making on resource protection concerns and mitigations.

## REGULATION PURPOSE AND NECESSITY

### 14 CCR § 895 Abbreviations Applicable Throughout the Chapter

### SPECIFIC PURPOSE OF THE REGULATION

The California Forest Practice Rules commonly utilize abbreviations of technical terms in the regulation text that are generally recognized by federal and state agencies, as well as the forest products industry representatives. However, the Forest Practice Rules under 14 CCR § 895 (Abbreviations) do not include a comprehensive listing of applicable abbreviations for these terms. Abbreviations are being added to represent the Road Management Plan (RMP) to allow some brevity in the rules and for clarity. The proposed addition to the abbreviations is intended to ensure that the affected public, as well as the reviewing agencies understand what technical term the abbreviation represents. This is additionally intended to allow for brevity in the rule language and subsequently to increase the clarity of reading for the regulated public.

### NECESSITY

The proposed addition to the abbreviations is necessary because the current and proposed Forest Practice Rules include abbreviations for technical terms in other subchapters without an adequate description of the term.

The abbreviation of the terms “Road Management Plan (RMP)" is necessary because this term is utilized in the proposed changes to the regulations, but the existing regulations fail to provide a common, enforceable abbreviation of the term that is being utilized.

### 14 CCR §1037. THP Preharvest Inspection-Filing Return.

### SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section of the proposed regulation is to state the process under which a THP submitted with an RMP shall have preliminary review for initial accuracy

and filing. The subsection establishes a 20 day period for director review for preliminary accuracy checks and filing for formal review.

**NECESSITY**

This amendment is necessary to provide the Department additional time to review THPs which are supplemented by an RMP. The RMP is expected to add additional preliminary review time.

**14 CCR § 1093.1 Road Management Plan.**

**SPECIFIC PURPOSE OF THE REGULATION**

The purpose of this section of the proposed regulation is to state the legislative intent and authorization for the BOF to create a RMP. It describes the purpose of providing information to the decision maker and the role of the RMP in providing information for environmental impact analytical purposes.

**NECESSITY**

This section is necessary to provide an overview of the purpose and intent of the RMP.

**14 CCR § 1093.2. Definitions.**

**SPECIFIC PURPOSE OF THE REGULATION**

The purpose of this section of the proposed regulation is to define several terms used in the RMP that are not already included in the definitions section s of the FPRs. The term "Management Unit" is used to define the physical boundaries needed to be analyzed in the RMP. A definition for "RMP" is included to ensure clear understanding of the meaning and concepts intended by the RMP. Such clarity was previously identified by the public to be absent in past similar proposals that we not adopted by the Board.

**NECESSITY**

One of the main primary objectives of a RMP is the broad scale assessment of the transportation system and water quality relationship. For the assessment to be useful, a particular area or scale needs to be established over which a RMP is conducted. The term management unit establishes the area that will be evaluated. The Board has determined that an adequate management unit needs to be, at a minimum, the land area within the Plan to which the RMP is a supplement. The Management Unit can be expanded to include other assessment areas (cumulative effects), watersheds and ownerships outside the forest district, when it is determined that it is necessary for an integrated plan.

## 14 CCR § 1093.3. Guidelines for Orderly Evaluation of Activities Proposed by an RMP.

### SPECIFIC PURPOSE OF THE REGULATION

The Board establishes broad guidelines to be included in the RMP in this section and defines the goals and objectives to be achieved in the development of the RMP. This section also requires the RMP to be prepared by a Registered Professional Forester (RPF) and other licensed professionals as needed.

14 CCR § 1093.3 (a)-(e) requires incorporation of objectives to include meeting the long term transportation needs of the land owner, identification of environmental concerns affected by road management activities, and prioritization of activities that will enhance environmental protection.

14 CCR § 1093.3 (f) states the RMP will be prepared by a RPF, along with other professionals as necessary, and will contain certain approaches (familiar to RPF's) that provide for unique problem solving approaches.

14 CCR § 1093.3 (g) and (h) establish the concept of practicality and reasonableness in creation and submission of a RMP. Information submitted as part of the RMP should be commensurate to the sensitivity of the environmental resources. For example, more information would be needed for complex environmental circumstances and less information in locations and situations where there are less concerns over potential impacts to beneficial use of water. Also, the RMP is intended to provide the submitter the opportunity and discretion to provide as much or as little detail as necessary within the confines of the other RMP content sections.

### NECESSITY

Section (1)-(3) are necessary to provide the overarching intention of the RMP. By outlining the expected goals and objectives to be achieved by the RMP, greater certainty is obtained that the RMP will be developed to address both the land owner's transportation needs and the needs of watershed protection related to the transportation system.

The requirement of the RPF to prepare the RMP, along with other professionals as needed, is necessary as the RPF is the only profession accepted by statute and regulation as having the expertise required to develop a THP and other licensed professional are required when expertise is beyond the RPF's capabilities.

The practicality and reasonableness is necessary to promote use of the RMP, provide for relevant information, and avoid unnecessary cost burden related information disclosure and analysis.

## 14 CCR § 1093.04 Content of Road Management Plan

## SPECIFIC PURPOSE OF THE REGULATION

The Board provides that if a person chooses to submit an RMP, it shall contain a goals and objectives, evaluation, operational, verification and adaptive management elements, along with other basic disclosure information such as name, address and legal locations [subsections (a) and (b)].

Subsection (c) (1) sets out the required contents for the goals and objectives element. Subsection (c) (1) (A) requires documentation of the landowners planning process. Subsection (c) (1) (B) requires documentation of the landowner's long-term desired future conditions, performance standards, and priorities for the road system.

Subsection (c) (2) (A-E) sets out the required contents for the evaluation element. Required as part of this element are:

- a description of the watershed within the plan and current transportation system status (c) (2)(A);
- significant constraints on management options(c) (2)(B);
- an inventory of and assessment of the transportation system which must contain specific elements to be assessed. Among the assessment items is a comparison of the road system relative specific beneficial uses of water (such as ability to accommodate passage of fish). Also included in the assessment is prioritization of road system components needing improvement and a schedule for treatments (c) (2)(C);
- an evaluation of significant effects that may result from implementing of the RMP, and a cumulative effects analysis related to implementing the RMP(c) (2) (D and E).

Subsection (c) (3) sets out the required information on operational elements. Information on operations and schedules for road construction and reconstruction, road use restrictions for excessively dry and wet conditions, actions (i.e. maintenance) proposed to improve road conditions, abandonment plans, and contingency for emergencies are required. A substantial number of general standard practices are including in this section (c) (3) (G) (1. – 28.). These standards are intended to represent well supported road management practices for the mitigation of adverse environmental effects from forest roads. Comparisons of the operational action and intend post action conditions stated in the RMP with these standard provides documentation of mitigation of adverse environmental effects to natural resources.

Subsection (c) (4) sets out the required contents for the verification element. Requirements for a basic monitoring component for compliance and effectiveness of items specified in Subsection (c) (3) are established with requirements to report information to CDF and other review team agencies.

Subsection (c) (5) sets out the required contents for the adaptive management element. The preparer must provide a method to be used to incorporate updated information and operational changes to the original RMP. The method used to monitor progress being made towards meeting environmental goals and objectives must be provided.

## NECESSITY

The public, responsible agencies and trustee agencies must have sufficient information to be able to assess the affects of the RMP relative to the THP proposal and the natural resources. This section also establishes common expectations among the parties on the extent of minimum detail required to effectively evaluate potential impacts of a transportation system. This section provides that clear direction.

Subsection (c) (1) sets the general requirement for the goals and objectives to be achieved by the RMP. It is necessary for the review team agencies to understand the long-term objectives of a landowner with regard to the transportation system in the watershed. It provides the agencies with information so that protection standards can be considered given the landowners needs. Subsection (c) (1) (A) specifically requires the landowner provide long-term objectives for the road system. Subsection (c) (1) (B) requires that the landowner describe desired future conditions, performance standards, and road system priorities to meet the objectives of the plan. This is needed to provide the review team agencies with a picture of the landowner goals and how the goals will be achieved. Without this information it would be extremely difficult to evaluate available alternative practices.

Subsection (c)(2) establishes an evaluation element. This describes the information necessary for the review team agencies to effectively evaluate potential impacts, and includes the actual ground conditions and how the road system relates to the ground. Subsection (c) (2)(C) is an outline of the methodology used to inventory roads and their impacts on the beneficial uses of water. This is necessary to understand if the correct information is being provided to identify the limiting factors for a watercourse and evaluate road impacts on watersheds. Subsection (c) (2)(A) provides the current and historical information necessary to evaluate how past practices have impacted a watershed. Much of the current impact to watersheds is occurring from roads constructed under outdated construction or maintenance standards and it is often those practices that have resulted in mass movement of soil and debris that continue to impact water quality. Thus, where practices have resulted in watershed damage, the plan proponent must specify how they can be modified to prevent the same continual outcome. Subsection (c) (2)(B) requires a disclosure of constraints on the landowner which may prevent the use of some practices that will reduce impacts on the beneficial uses of water. This information is necessary to understand the types of practices that are possible to incorporate into an RMP. Subsection (c) (2)(D) requires specific documentation of the evaluation framework stated in (c)(2)(C). Such specific documentation ensures that the evaluation was conducted thoroughly and provides information useful for review by agencies and the public.

Subsection (c) (3) requires the basic information for the operational elements that are proposed to take place, such as ground disturbing activities. This is needed to understand how proposed activities will interact with the watershed conditions and what range of results may occur.

Subsections (c) (3)(A)and (B) are needed to evaluate the proposed effects of road building and road use activities on the soil, geology, and subsequently water quality within a watershed when wet weather conditions are present. This information provides the review team agencies with sufficient information to evaluate how the road system will be affected by the local climate. Erosion control facility installation and road use can be timed to minimize erosion features.

Subsection (c) (3)( D) provides information on planned road improvement activities. Again those planned actions need to be identified to allow the review team agencies to evaluate potential impacts of those activities on the beneficial uses of water.

Subsection (c) (3)(C) requires the submitter to provide an outline of the planned road maintenance activities. The need for this information is to provide information necessary for the review team agencies to accurately assess whether the proposed maintenance and inspection will be adequate to prevent adverse impacts on water quality.

Subsection (c) (3)(E) requires information on planned road abandonment. The review ream agencies need this information to not only evaluate impacts on water quality, but to determine if the ability to provide resource protection (insect, disease, fire, etc.) services on the ownership will remain.

Subsections (c) (3)(F) requires disclosure of any emergency action plans developed by the landowner related to roads. Without this information there is not a means to evaluate if the RMP can properly accommodate the impacts of infrequent catastrophic events.

Subsections (c) (3)(G) is necessary for demonstration of mitigation of significant impacts. Application in the RMP of the “general standard practices” indicates to regulator that action in the RMP is likely to protect natural resources and improve efficiency of regulatory review.

Subsection (c)(4) requires a verification element in the RMP. This is needed so that the landowner and review team agencies can determine if the accepted plan is being accomplished as per the agreed to schedule and is providing the desired protection of the beneficial uses of water. Subsection (c)(4)(A) requires the THP submitter to monitor the operational components of the RMP. This is necessary to ensure that the practices agreed upon in the RMP are being accomplished in compliance with the approved THP. Subsection (c)(2)(B) requires the RMP contain a description of actions which will be taken by the Submitter to determine the effectiveness of the erosion control practices agreed to in the RMP. Without this feed back loop there is no ability to implement the adaptive management aspect of the RMP. Subsection (c) (2)(C) requires that the previously described information be provided to the Director and review team agencies. This information is needed to determine if currently applied practices are successful in protecting the beneficial uses of water, and if there is any significant new information that requires additional review.

Subsection (c)(5) sets out the adaptive management element. This is necessary for the submitter and review team agencies to eliminate ineffective practices and agree upon a new approach(s) that will provide the desired protection of the beneficial uses of water. Subsection (c) (5)(A) requires the submitter to identify when information will be used to update the RMP. Subsection (c) (5)(B) identifies the process to implement the new information. Subsection (c) (5)(C) identifies the method used to monitor the results of the adaptive management. These sections ensure relevant information is being incorporated in updates provided to the Director and Review Team agencies. It would make certain that there is a clear path for the transmission of official information.

## 14 CCR § 1093.5 Limitation on Information Requirements

### SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section of the proposed regulation is to limit the amount of information required in a RMP when there are ownerships other than the RMP submitters' involved in the plan.

### NECESSITY

These limits are necessary to avoid unreasonable disclosure of private information and to set a level of practically, reasonableness and confidentiality protection for a RMP.

## 14 CCR § 1093.6 RMP Effective Period

### SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section of the proposed regulation is to state a time limit for the implementation of a RMP. An RMP is limited to the time period associated with the THP to which it supplements.

### NECESSITY

The subsection is a necessary to ensure a reasonable certainty for operational use is provided. The ten year period was determined by the Board to provide an adequate length of time to enact operational aspects and provide resultant monitoring of watershed improvements. Additionally, with this subsection permitting a renewal opportunity, it is necessary to determine if any new significant new information has been discovered during the implementation of the RMP in accordance with the substantial deviations 14 CCR § 1093.07 to determine if the existing RMP is adequate. An option is provided to better clarify that changed conditions refers to both legal and environmental conditions.

## 14 CCR § 1093.7 Review of Road Management Plan-Notice of Filing

### SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section of the proposed regulation is to state the Director shall review, approve or disapprove all submitted RMPs as part of the THP process to which the RMP supplements.

### NECESSITY

These subsections are necessary to establish a formal review process and appeal process for the department, agencies, the applicants of RMPs, and the public. This helps the applicant receive fair treatment and the public an opportunity to comment. Common expectations for transparency are established for both the public and reviewing agencies.

**14 CCR § 1093.8 Amendments**

**SPECIFIC PURPOSE OF THE REGULATION**

The purpose of this section of the proposed regulation is to state the process under which amendments to the RMP will be considered. Subsection (a) states that substantial deviation proposed for amendment to an RMP will be treated as any substantial deviation is treated in a THP pursuant to 14 CCR 1039 and subsections (b) states that minor deviation will be treated as any minor deviation is treated in a THP pursuant to 14 CCR 1040.

**NECESSITY**

These subsections are necessary to provide certainty and clarity for a formal amendment process for RMP submitter, department, other agencies and the public. This helps assure the applicant receives fair treatment and ensures that appropriate adjustments, consistent with ground and management variations, are made.

**14 CCR § 1093.10 Change in Ownership**

**SPECIFIC PURPOSE OF THE REGULATION**

The purpose of this section of the proposed regulation is to state the process when there is a change in ownership to lands submitted under an RMP. Such a change in ownership shall be in accordance with 14 CCR 1042, which includes notification to the Director by the seller of the change in ownership and notification to the purchaser by the seller of stocking responsibility requirements.

**NECESSITY**

This subsection is necessary to provide disclosure to new property owners that have an RMP and to CDF of the responsibility of the new landowners related to the RMP. This ensures continuity of the tiering between RMP and subsequent plans.

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

The Board has not identified any alternatives that would lessen any adverse impact on small businesses. In making this determination the Board determined that the development and submission of a RMP is a voluntary action on behalf of a person or entity. As such, each person or entity will have made their own investigation and conclusions on any net benefits to be derived by submission of an RMP.

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

This regulatory proposal is not considered to cause a significant adverse economic impact because it is a voluntary alternative for the THP preparer and landowner. It is true there will be significant time spent by the RPF working with the review team agencies in the development and approval of such a plan. However, the other current

rules applicable to impaired watersheds (T&I rules, 916.9, 936.9, 956.9) may require at least the same effort in pre-consultation.

The rule proposal may affect businesses and small business related to the timber industry by increasing the cost for timber harvesting. These potential extra costs are associated with planning, operations, and monitoring. They include, but are not limited to, additional planning, construction and maintenance costs for roads and watercourse crossings, and additional cost of professional consultations. There may also be additional cost associated with additional inspections.

The preparation and use of an RMP with a THP is not required but is an opportunity provided to THP submitters. As such, it is the responsibility of the timber/land owner to determine if the economic balance is in favor of proceeding under existing operational and planning requirements or to design site related actions specific to the owner's property.

Given this use of the regulation at the discretion of the individual or business, the Board staff does not anticipate that any increased costs will result in a significant, statewide adverse economic impact directly affecting business, nor has it determined that it will affect the ability of California businesses to compete with businesses in other states. While the Board staff has identified the potential for costs and benefits to be derived by the individuals or businesses implementing the proposed rule, the Board staff also identified potential for increased benefits to other sectors of business and to individuals not directly involved in implementing the rule throughout the State. Some of the benefits derived from the change in the proposed regulation could be contributed to both market and non-market values related to increases in anadromous fish populations, reduction in the costs of flood control, reduction in road damage (repair costs) and the ability of land managers to continue to harvest timber without the restrictions that could result from a determination of "take" by the National Marine Fisheries Service. Benefits will also be derived from potentially enhanced beneficial uses of water for drinking and other recreational uses besides those related to sport fishing.

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

The Board has considered several alternatives relating to forest transportation systems and water quality since 2002. All alternatives considered provide equal to or better protection of the waters of the State. None of the alternatives presented would have a significant adverse impact to the environment.

**A.** *Provide the ability to review, assess, and approve the equivalent to an RMP within existing plans.*

Pro: A Programmatic Timber Environmental Impact Report (PTEIR) (for larger land owners), the Non Industrial Timber management Plan (NTMP) (for smaller land owners), or a Sustained Yield Plan (SYP) are existing plans under which the RMP concept could be implemented. Such plans allow for the Director to require information necessary to evaluate the potential for significant impacts to the environment. Because the RMP is designed to gather information necessary to

evaluate potential impacts, develop acceptable mitigations, and monitor effects, these larger plans could include road/water quality related analysis.

Con: The Assessment area for PTEIR, NTMP. or SYP are limited to the ownership. This does not provide as comprehensive review of complete watershed analysis as the proposed regulation.

**B.** *Develop additional prescriptive standards to be addressed on a THP by THP Basis.*

Pro: The initial planning cost for the landowner would be reduced by tying it to a specific THP that would produce revenue to cover the cost. Also, the road management practices to reduce impacts would be tied to very site specific problems.

Con: This use of prescriptive standards creates a situation where the standards will not meet the needs of a significant number of site specific situations. Alternative or in-lieu practices will need to be provided. Consideration of alternatives or in-lieu practices has developed a negative perception. This creates a situation where more time and money is spent in conflict rather than in developing a road system which has minimal impact and is most efficient in meeting the landowner's objectives.

**C.** *Take no action and continue with the existing rules, using public education and professional training to guide landowners, interested public, and agencies towards the product of an efficient road system with minimal impacts to the beneficial uses of water.*

Pro: Cost impacts would be minimized for the landowner. The reduced time and effort spent on regulatory proceedings could be used to improve road system design, construction and maintenance.

Con: This is in essence a no action alternative. The agencies and interested public have developed such a negative view of the current process that it is unlikely any improvements would be recognized or accepted as meeting their goals.

**D.** *CDF Preparation for Voluntary Guidelines for a RMP Master* Assessment*.*

The Director prepares a Master Assessment for an area that contains the same information as the proposed RMP regulation. A Master Assessment is an inventory, data, etc. to provide information that may be used or referenced in an environmental document. The Director may obtain this information from any source, including the landowner, other public agencies, or public interest groups (14 CCR 15169). The Director may request this information be provided on a voluntary basis in the form of guidelines for the preparation and submission. This information can be used to support a discretionary decision on a project under CEQA.

Pro: This would provide standardized information available to all THP applicants and would assist both regulatory agencies and plan applicants in succeeding in creating

an RMP that contributes to watershed level protection and improvements. The Board initially selected this approach and it was adopted and approved by the Office of Administrative Law as meeting the standards of the Administrative Procedures Act. Subsequently, a civil action was filed to bar implementation of a rule that used similar approaches for long term landscape planning. The civil action was successful and the court barred implementation of those similar rules. The court was unable to recognize that individual projects would incorporate the information contained in a long term landscape plan and that public and agency transparency and participation would occur in the THP review process. Such a relationship between information in long term/broad plans and site specific THP projects is specifically set forth in CEQA under the use of a Master Assessment.

Con: This would be an extensive and expensive endeavor that is not practical under the existing staff and budgets situation in CDF and other departments that would be needed to cooperate. Continuing with this approach would be counter the court order directing the Board to reconsider the process for an RMP.

## POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has not identified any adverse environmental effects from the proposed action. Actions taken under this regulation are designed specifically to improve water quality conditions and mitigate identified and potential adverse impacts from the forest transportation system.

Of the alternatives considered by the Board, none would result in significant adverse impacts to the environment. All alternatives provided regulatory guidance that would require identification of potential impacts, multi-disciplinary review of proposed actions, identification of mitigations and alternatives, acceptance and implementation of all feasible mitigations or alternatives, and a monitoring and evaluation segment. If all feasible actions to avoid significant impacts are incorporated into a proposed project and identifiable significant impacts remain 14 CCR § 898.1 provides the Director guidance on reaching a decision. If the Rules of the Board do not provide for mitigation of an identified impact, direction is provided in § 4555 of the Public Resources Code.

Regardless of the alternative selected by the Board there is always the potential of human error in evaluation or implementation of practices. If this occurs, corrections are made to mitigate any damage and any justified corrective or penalty action is pursued under the authority of the Z'berg-Nejedly Forest Practice Act (PRC 4601 through 4610).

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

The Board of Forestry and Fire Protection consulted the following listed information and/or publications as referenced in this *Initial Statement of Reasons.* The information was provided by the California State Water Resources Control Board, the California Regional Water Quality Control Boards, the California Geologic Survey, the California Department of Fish and Game, the California Department of Forestry and Fire Protection, the Monitoring Study Group of the California State Board of Forestry and Fire

Protection, the Board staff, and other sources to address potential adverse impacts to watercourses with threatened or impaired values (available upon request). Unless otherwise noted in this *Initial Statement of Reasons*, the Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

1. Letter to Mr. Robert Kerstiens, Chairman, Board of Forestry and Fire Protection from California Environmental Protection Agency and the Resources Agency, with proposed Rules, June 30, 1999.
2. Interim Report to the California State Board of Forestry and Fire Protection, Hillslope Monitoring Program: Monitoring Results from 1996 through 1998 (June, 1999)
3. Explanation and Justification for Proposed Forest Practice Rules Addressing Watersheds with Threatened or Impaired Values
4. Coho Salmon Biological Opinion and 2090 Agreement for Timber Harvest Plans South of San Francisco Bay, May 7, 1996.
5. Coho Salmon (*Oncorhynchus kisutch*) Considerations for Timber Harvests under the California Forest Practice Rules, April 29, 1997.
6. Special Order to Provide Incidental Take of Coho Salmon South of San Francisco Bay during Candidacy Period, May 9, 1994.
7. Draft Rule Language, Coho Considerations, 1999.
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31. 303d Listed Streams and Associated Watersheds, map.
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33. 303d Listed Streams and Evolutionarily Significant Units for Coho, Steelhead and Chinook, map.
34. 303d Listed Streams and Associated Watersheds, map.
35. Extent of Land and Evolutionarily Significant Units for Coho, Steelhead and Chinook, map.
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**Pursuant to Government Code § 11346.2(b)(6)**: In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Statement of Reasons*; the Board has directed the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

**PROPOSED TEXT**

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

1) language existing before 7/28/06 is shown in PLAIN TEXT,
2) Proposed adoptions, deletions and amendments to the current and interim language are shown as ~~STIKETHROUGH~~ and <u>UNDERLINED</u>

All other text is existing rule language. (CZ 7_14_06)