

Road Regulations of Anadromous Salmonid Protection Rules

Concept for Review

Staff Proposal September 1, 2009 For Consideration at the September 8, 2009 Forest Practice Committee Meeting

Executive Summary: California Forest Practice Rules related to protection of watersheds with anadromous salmonid species, termed the “Anadromous Salmonid Protection Rules (ASP)” are continuing to be reviewed and updated by the State Board of Forestry and Fire Protection. The ASP rules related to riparian buffers were reviewed in 2008. The “Road Rules” portions of the ASP rules are the next group of rules to be considered by the Board. The rules are being reviewed to determine their adequacy in protecting the species and meeting the Forest Practice Act and other legal mandates.

Review Scope: The scope of the review is limited to the following sections of the FPRs. These sections were originally adopted in 2000 under the “Threatened or Impaired Watershed” rules (T/I rules) or in 2007 under the rules for facilitating incidental take of coho salmon through DF&G §2112 regulation.

§ 916.9 [936.9, 956.9] (a), (c), (k)-(p) Protection and Restoration in Watersheds with Threatened or Impaired Values

§ 923.3 [943.3, 963.3] Watercourse Crossings

§ 923.9 [943.9, 963.9] Roads and Landings in Watersheds with Threatened or Impaired Values

§ 916.9.2 [936.9.2] Additional Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon

§ 923.9.1 [943.9.1] Minimization and Mitigation Measures for Roads and Landings in Watersheds with Coho Salmon

§ 923.9.2 [943.9.2] Additional Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon

Project Goals:

- Complete review of road related rules and adopt any new regulations to go into effect on January, 2011 or January, 2012, depending on the complexity of the regulatory proposal.
- Rules adopted shall be permanent with no expiration date.

- Adopted rules will be consistent with contemporary science information.
- Adopted rules will be consistent with other state laws.

Review Process

The rule review will include:

- **Science literature review:** Compilation, review, and synthesis of scientific literature, and evaluation of the adequacy of existing rules based upon current science. A review of the literature will be conducted and will include scientifically robust, peer reviewed, data rich documents. Stakeholders will be encouraged to submit appropriate science literature. It is expected that there will be no funds available to finance a Technical Advisory Committee or for a contracted literature review.
- **Road Rules Committee input:** Consideration of regulatory organization suggestions from the Board's 2008 Ad Hoc Road Rules Committee.
- **Legal authorities review:** An assessment of the rules for consistency with the Board's statutory authority.
- **Consistency with other agencies:** An assessment of the rules for consistency with other pertinent state/federal laws.
- **Stakeholder input:** Consideration of comments provided by stakeholders.
- **Evaluate existing road related rules:** Consider the effectiveness of current rules in preventing significant adverse impacts, cumulative impacts, and take of listed species.
- **Regulatory concepts:** Draft regulations will be developed by a CAL FIRE team.
- **Alternative and impacts:** An assessment of the economic and fiscal impact and environmental impacts of each regulatory alternative.
- **Review staff:** The Board staff will conduct various components of the review. The Board's Forest Practice Committee will oversee and approve the team's work

Key Topics Below is an initial list of likely important regulatory topics that will be the focus of the review. These include:

- regional/geographic scope of rules;
- consistency with science information;
- modifications/development of goal/intent statements;
- organizational clarity with other non-anadromous salmonid road related sections of the FPRs;
- consistency with other state and federal laws.;

- watercourse crossing standards and implementation;
- road surface and erosion control; and
- role of RMPs.

Time frame and Calendar of Activities

- Notify stakeholders and agencies of review – **September 2009**
- Assemble review team – **October 2009**
- Conduct science review and synthesis - **October 2009 to February 2010**
- Develop key legal, agency consistency, and stakeholder issue points - **October 2009 to February 2010**
- Compare existing rules to collected information – **March to April 2010**
- Develop regulatory concepts and alternative assessments **May 2010**
- Prepare formal regulatory proposals – **June to August 2010**
- Notice Rulemaking Action - **September 2010**
- Adopt Rulemaking Actions - **2011**

Meetings: Stakeholders meetings will be formally noticed to the BOF contact list established for the project. Individual invitations will be offered to responsible agencies. Meetings will be held at every monthly FPC meeting and other workshops as needed.

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