

**Board of Forestry and Fire Protection (Board)
Title 14 of the California Code of Regulations**

[Notice Published August 14, 2009]

NOTICE OF PROPOSED RULEMAKING

Watersheds with Threatened or Impaired Values Extension, 2009

The proposed changes to the Forest Practice Rules (FPRs) amend sections related to “Protection and Restoration in Watersheds with Threatened or Impaired Values”, 14 CCR § 916.9 [936.9, 956.9], and are generally termed Threatened or Impaired rules (T/I rules). These regulations define planning and operational requirements for timber harvesting and planning watersheds where State or federally listed threatened, endangered or candidate populations of anadromous salmonids are present or where they can be restored. The T/I rules currently expire on date of December 31, 2009. The proposed regulatory amendments, entirely and solely involve changing the expiration date of the regulations to December 31, 2010.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following sections of Title 14 of the California Code of Regulations (14 CCR):

Amend:

§ 895.1	Definitions
§ 898	Feasibility Alternatives
§ 914.8 [934.8, 954.8]	Tractor Road Watercourse Crossing
§ 916 [936, 956]	Intent of Watercourse and Lake Protection
§ 916.2 [936.2, 956.2]	Protection of the beneficial Uses of Water and Riparian Functions
§ 916.9 [936.9, 956.9]	Protection and Restoration in Watersheds with Threatened or Impaired Values
§ 916.11 [936.11, 956.11]	Effectiveness and Implementation Monitoring
§ 916.12 [936.12, 956.12]	Section 303(d) Listed Watersheds
§ 923.3 [943.3, 963.3]	Watercourse Crossings
§ 923.9 [943.9, 963.9]	Roads and Landings in Watersheds with Threatened or Impaired Values

PUBLIC HEARING

The Board will hold a public hearing on starting at 8:00 a.m., on October 7, 2009, at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Monday, September 28, 2009.** The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551 and 4554.5 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4513, 4551.5, 4561 and 21080.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board recognizes the need to protect anadromous salomid populations listed under the State Endangered Species Act (ESA) and the Federal ESA that may be impacted by forest practices regulated under the Board's preview. In prior years the Board addressed this by adopting changes to the FPRs in 2000 under a previous rulemaking package (Protection for Threatened and Impaired Watersheds {T/I}, 2000, OAL File No. Z00-0118-14). The Board subsequently extended these rules in 2001, 2002, 2003, 2006 ,2007 and 2008.

The T/I rules were adopted and readopted on a temporary basis in order for the Board to review alternatives to the T/I regulations adopted in 2000. Currently, the T/I rules expire on December 31, 2009. Although advances have been made towards reviewing appropriate long term regulatory needs, the Board has not completed its review of the T/I rules.

Given the current expiration date of December 31, 2009, the proposed regulation is necessary to address the pending expiration of the regulation.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to extend the existing T/I rules for a period of one year to complete and consider the results of the literature review, input from the public and other factors. Specific changes to the proposed regulations in this Notice, entirely and solely involve changing the expiration date of the regulations to December 31, 2010.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. The changes proposed under this rulemaking action would extend the effective date of rules until December 31, 2010. There are no other proposed regulatory changes under this proposal. As such, there would be no additional economic relief or burden on any impacted business beyond what is imposed by the existing T/I rules.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have 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 at the above address. All of the above referenced information is also available on the Board web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

A handwritten signature in black ink that reads "Christopher Zimny". The signature is written in a cursive style with a horizontal line above the text.

Christopher Zimny
Regulations Coordinator
Board of Forestry and Fire Protection