

## **Board of Forestry and Fire Protection**

### **Supplemental Statement of Reasons**

#### **“WORKING FOREST MANAGEMENT PLAN”**

**Title 14 of the California Code of Regulations (14 CCR),  
Division 1.5, Chapter 4, Subchapter 1, Article 1; Subchapters 4, 5 & 6,  
Articles 3, 6, 9, 13 and 14; Subchapter 7, Articles 2, 6.5, 6.95 and 7. Title 14 of the  
California Code of Regulations (14 CCR),  
Division 1.5, Chapter 4.5.**

The Board of Forestry and Fire Protection (Board) intends this Supplemental Statement of Reasons to provide corrected, more complete, and additional information to the Working Forest Management Plan (WFMP) Initial Statement of Reasons (ISOR). The following information is provided to augment the necessity statements for the provisions indicated, revise the number of timberland owners eligible to apply for a WFMP, correct the documents relied upon by striking one and adding another, and providing evidence relied upon to support the initial determination that the proposed action will not have a significant adverse impact on business.

### **Introduction, Including Public Problem**

The first full paragraph on page 5 of 121 of the WFMP ISOR addresses the number of timberland owners that may potentially benefit from the WFMP. It has since come to the Board's attention that an error was made in the assumptions made to arrive at these estimates. The discussion below revises the number of timberland owners that may be eligible to apply for a WFMP and provides a reference to the document relied upon for generating this estimate.

The California Department of Forestry and Fire Protection issued a preliminary report in January of 2013 titled *NTMP Expansion Study* that sought to identify the number of forestland owners that would be eligible for an NTMP if the acreage cap was lifted from 2,500 acres to 15,000 acres. This report identified 81 landowners with ownerships between 2,500 and 15,000 acres. This number was reported in the ISOR as the number of landowners that would qualify for a WFMP. However, this number failed to exclude the ownerships falling within the Southern Subdistrict of the Coast Forest District, who are specifically excluded from eligibility for a WFMP by statute. The revised estimate of forestland owners with ownerships between 2,500 and 15,000 acres that are eligible for a WFMP is 67.

Additionally, there are a couple of other pathways for timberland owners to become eligible for a WFMP. First, a collection of two (2) or more landowners with a combined acreage of timberlands less than 15,000 acres may file a WFMP jointly. Second, the

owner of less than 2,500 acres of timberland may acquire ownership of additional acres. This would add an unknown number of landowners that would be eligible to apply for a WFMP.

## **Specific Purpose of each Adoption, Amendment or Repeal**

The statements below describe why each indicated subsection is reasonably necessary to effectuate the purpose of the regulation. These are provided to strengthen and clarify the descriptions provided in the ISOR.

**895** is necessary for the public and regulated community to understand the abbreviations used throughout this chapter.

**895.1** is necessary to include the WFMP in these definitions so the WFMP is held to the same standards as other Plans.

**913.11 [933.11, 953.11](a – c)** are necessary to ensure that timber harvesting under the WFMP meets the objective of maximum sustained production of high value timber products as required by statute (PRC § 4513).

**916.5 [936.5, 956.5](e)** is necessary to ensure the protection of values related to watershed and aquatic habitat during implementation of the WFMP. Sample identification and marking of the watercourses prior to the preharvest inspection is necessary for agency evaluation of rule compliance prior to approval of the WFMP.

**919.9 [939.9]** is necessary to ensure the protection of northern spotted owls during WFMP implementation.

**923 [943, 963]** is necessary to inform the public and regulated community of the two (2) processes by which new information may be incorporated into an approved WFMP as an enforceable provision.

**923.2 [943.2, 963.2](a)(5 & 6)** are necessary to provide the public and regulated community with an updated reference to Technical Rule Addendum Number 5.

**923.3 [943.3, 963.3](a)** is necessary to provide a cross reference in existing law to inform the project proponent of the mapping requirements for logging roads and landings to be identified within the WFMP.

**923.4 [943.4, 963.4]** is necessary to identify to the regulated community the two (2) processes by which new information may be incorporated into an approved WFMP as an enforceable provision.

**923.4 [943.4, 963.4] (a)** is necessary to provide the public and regulated community with an updated reference to Technical Rule Addendum Number 5.

**923.5[943.5, 963.5] (a),(g), & (h)** are necessary to provide the public and regulated community with an updated reference to Technical Rule Addendum Number 5.

**923.9 [943.9, 963.9](m)(2) & (o)** are necessary to provide the public and regulated community with an updated reference to Technical Rule Addendum Number 5.

**929 [949, 969](b)** is necessary to inform the public and regulated community that the regulations pertaining to archaeological and historic resource protection apply to the WFMP by including the WFMP in the suite of Plans to which these existing rules apply. This ensures these resources are given consideration and protections during WFMP implementation.

**945.1(a)** is necessary to increase the clarity of this section. The intention of the rule section is to ensure, or make certain, that these resources are identified and protected. The use of insure may cause the regulated community to misconstrue the purpose of this section.

**945.1(b)** is necessary to inform the public and regulated community that the Lake County Rules apply to a WFMP by including the WFMP in the suite of Plans to which these existing rules apply.

**1038(h)(2)** is necessary to exempt harvesting of large old trees, from this paragraph, when done in compliance with an approved WFMP that addresses large old tree retention. Adding the WFMP to this section prevents the project proponent from duplicating the analysis of large old trees contained in the approved WFMP to comply with the provisions this paragraph.

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

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

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

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

**1090.28** informs the public and regulated community that a person with a NTMP may be eligible for state restoration grants. This is necessary because many state restoration grants exclude work that is otherwise required to be completed under a timber harvesting plan.

**1094** is necessary to include the WFMP in these definitions so the WFMP is held to the same standards as other Plans.

**1094.1** is necessary to inform the public and regulated community of the appropriate CAL FIRE Review Team Office to submit a WFMP for review.

**1094.2** is necessary to provide the public and regulated community with clear definitions of the terms used in this article. Clearly defining these terms facilitates the Department enforcement of the provisions of the WFMP.

**1094.3** is necessary to inform the public and regulated community the minimum conditions required for the preparation of a WFMP.

**1094.3(a)** is necessary to identify the person responsible for submitting a WFMP for clarity and accountability.

**1094.3(b)** is necessary to ensure timely communication between the timberland owner and the timber owner, upon submission of a WFMP, when these two parties are not the same.

**1094.3(c – g)** are necessary to ensure adjacent property owners and the public are notified in a timely manner of and receive basic information about the nature of the proposed operations under the WFMP. This basic information allows the interested public to evaluate whether they would like to review the entirety of the WFMP or provide public comment during the multi-disciplinary review process.

**1094.4(a – e)** are necessary to inform the public and regulated community where and when the Notice of Preparation will be distributed for posting. The identified minimum distribution locations ensure that the public notice is available in predictable locations accessible to the general public.

**1094.5(a & b)** are necessary to provide a transparent process for the interested public to find out when a WFMP or a Working Forest Harvest Notice (WFHN) has been filed with the Department.

**1094.6** is necessary to inform the public and regulated community of the purpose of the contents of the WFMP. Disclosing the purpose allows the interested public to know what information to expect from the contents of a WFMP.

**1094.6(a – d)** is necessary for the Department to have the names and contact information for each of the parties responsible for a portion of the WFMP for compliance and enforcement.

**1094.6(e)(including all provisions)** is necessary to provide a map to geospatially display the project and resources that will be impacted by timber operations under the WFMP for the project proponent, public and interdisciplinary review team. This map gives a clear depiction of the locations where operations will occur, and allows for an evaluation of the surrounding environmental conditions that may be impacted by these operations.

**1094.6(f)(including all provisions)** is necessary to provide a clear description of the area proposed for operations in order to geospatially reference the project. The public land survey description allows for the area to be located on other maps that contain locations of sensitive resources. The County name, in part, allows for the plan to be publicly noticed in the correct location. The planning watershed is used, in part, to identify other projects in the same planning watershed that may cumulatively add to the impacts of the proposed project. The forest district in which operations will occur determines which regulations apply. Identifying other land uses allows for the reviewing agencies to determine other values that may be impacted by the proposed operations.

**1094.6(g – i)** is necessary to allow the project proponent, public and interdisciplinary review team to evaluate the accuracy of the inventory and the projected growth and yield. The current inventory of forest stands is determined through measuring a sample of the trees occupying the stand. There are numerous acceptable sampling methods to arrive at an inventory estimate. The public and review team need to know the estimated inventory and the method by which the estimate was derived to evaluate the appropriateness of the proposed management strategy. Similarly, numerous growth and yield models exist for projecting estimated future growth of forest stands. Knowing which models were used is needed to allow the project proponent, public and reviewing agencies to understand the assumptions and limitations of the projected growth and yield data being reported. Stratification of timber stands, for sampling purposes, increases the accuracy of these projections by dividing the area covered by the WFMP into homogenized stand types. Providing an expected accuracy determines the percent of the area that must be sampled, and the level of stratification needed to provide a minimum level of confidence in the accuracy of the current inventory and projected growth and yield information.

**1094.6(j)(option 1 & 2)** is necessary to disclose to the public and interdisciplinary review team how erosion will be prevented or mitigated throughout the WFMP area to assess whether implementation of the WFMP will have a significant impact on water quality and/or aquatic habitats.

**1094.6(k)** is necessary to require the disclosure of unique areas, as defined in 14 CCR § 895.1 to facilitate review of them by the project proponent, public and interdisciplinary review team.

**1094.6(l)(including all provisions)** is necessary to facilitate evaluation by the project proponent, public and interdisciplinary review team of how the habitat provided by Late Successional Forest Stands and hardwoods will be managed over time by implementation of the WFMP. Management of these features is allowed under the WFMP provided the total acreage is not reduced so it is necessary to provide a description of how these features will be retained or new features will be developed during management activities.

**1094.6(m)(including all provisions)** is necessary to require the disclosure of the presence of sensitive plants and animals within the assessment area that may be impacted by implementation of the WFMP to facilitate the evaluation by the project proponent, public and interdisciplinary review team of the mitigation measures proposed to prevent impacts to these species.

**1094.6(n)(including all provisions)** is necessary for the project proponent, public and interdisciplinary review team to evaluate the expected impacts associated with implementation of the WFMP for each Management Unit.

**1094.6(o)(including all provisions)** is necessary to prevent the degradation of habitat through the requirement that additional assessment be provided when long term sustained yield (LTSY) projections project a reduction in quadratic mean diameter of trees greater than 12 inches in diameter or a reduced level of inventory for a Major Stand Type or for a Stand or Strata that make up greater than 10 percent and less than 25 percent of the WFMP area. This provision allows for the inclusion of stands that may be overstocked, in regards to balancing growth and yield, within a WFMP.

**1094.6(p)** is necessary for the Working Forest Landowner to enter into a WFMP with the knowledge that entering this agreement obligates them to periodic capital outlays in order to continue to manage their forestlands under this Plan. Development of a WFMP requires a significant commitment of resources by a landowner. Requiring this disclosure ensures that predictable costs that will not be realized until future years do not come as a surprise to the landowner.

**1094.6(q)(including all provisions)** is necessary to enable compliance and enforcement regarding the periodic update of inventory sampling and analysis of LTSY. This is necessary to check the accuracy of the original projections, and account for unforeseen events that may impact the realization of those projections.

**1094.6(r)** is necessary to prevent the degradation of cultural and historical resources during implementation of the WFMP.

**1094.6(s)** is necessary to disclose to the public and interdisciplinary review team whether any portion of the proposed WFMP area is planned to be devoted to uses other than the growing of timber to evaluate the impacts of these other uses.

**1094.6(t)** is necessary to disclose to the public and interdisciplinary review team whether any portion of the proposed WFMP is under an active permit for timber management activities, and whether all obligations of that permit have been met. It is likely that landowners developing a WFMP will be already engaged in active management of their timberlands and will have active operations to, at least in part, develop the capital required to produce a WFMP. Ongoing operations need to be accounted for in any descriptions of the baseline environmental conditions present during evaluation of the WFMP.

**1094.6(u)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate evaluation of whether implementation of the WFMP will have a significant impact on the beneficial uses of water.

**1094.6(v)** is necessary to provide information to the public and interdisciplinary review team to evaluate whether implementation of the WFMP will have a significant impact on the productivity of the state's timberlands.

**1094.6(w)** is necessary to provide information to the public and interdisciplinary review team to evaluate whether implementation of the WFMP adequately mitigates potential significant impacts to fire and pest hazards.

**1094.6(x)** is necessary to provide information to the public and interdisciplinary review team to evaluate whether successive management activities associated with implementation of the WFMP will lead to foreseeable cumulative impacts to public trust resources.

**1094.6(y)** is necessary for the Working Forest Landowner to be knowledgeable of the provisions of the FPRs at the time of WFMP approval because the WFMP is a long-term permit and the Forest Practice Rules (FPRs) will change over time.

**1094.6(z & aa)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether implementation of the WFMP adequately mitigates potential significant impacts from ground based operations on steep or unstable slopes and in areas designated for cable logging.

**1094.6(bb)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether implementation of the WFMP adequately mitigates potential significant impacts from winter operations. Special consideration is given to winter operations given soils are more likely to be saturated and operations can cause compaction, with an associated reduction of productivity, or delivery of sediment to a watercourse, with associated impacts on timber production, water quality and aquatic habitats.

**1094.6(cc)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether implementation of the WFMP adequately mitigates potential significant impacts to watercourses. The potential for a road, landing, or skid trail to deliver sediment to a watercourse, impacting water quality and aquatic habitats, increases with its proximity to the watercourse.

**1094.6(dd – ff)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether alternatives to the standard rules proposed in the WFMP provide equal or better protection to public trust resources as compared to the standard rules.

**1094.6(gg)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether the mitigations proposed in the WFMP are adequate to prevent significant impacts from surface erosion or mass wasting.

**1094.6(hh)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of whether the road system to be used during implementation of the WFMP may cause significant impacts to public trust resources.

**1094.6(ii)** is necessary to provide information to the project proponent, public and interdisciplinary review team to facilitate the evaluation of the types of aquatic resources that may be at risk to impacts from implementation of the WFMP.

**1094.6(jj)(including all provisions)** is necessary to provide information to the project proponent, public and interdisciplinary review team about programmatic ways in which tractor operations on steep or unstable slopes and roads and landings in close proximity to watercourses will be treated during implementation of the WFMP. Identifying every area in which these operations may occur, at the outset of the permit, is difficult.

**1094.6(kk)** is necessary to provide Working Forest Landowners an expectation that proprietary information submitted to the Department will remain confidential. Landowners are specifically sensitive about disclosing growth and yield data to competitors or potential purchasers of their forest products. However, this information is important for the Department to review as part of a comprehensive evaluation of the WFMP. This provision ensures that providing this information will not result in the Working Forest Landowner being placed at a competitive disadvantage in the marketplace.

**1094.7** is necessary to provide a method by which timber harvesting in compliance with an approved WFMP may commence. Filing a WFHN provides the Department notice of the location and extent of the harvesting operations for compliance and enforcement purposes.

**1094.8** is necessary to create the expectation to the public and regulated community that the WFHN will be readily available for public inspection, and that deviations to the WFMP must be approved prior to submission of a WFHN.

**1094.8(a – e)** is necessary for the Department to have the names and contact information for each of the parties responsible for a portion of the WFHN for compliance and enforcement.

**1094.8(f)** is necessary to provide a clear description, including the total acreage, of the area proposed for operations. The public land survey description allows for the area to be located on other maps that contain locations of sensitive resources. Identifying the WFMP that authorizes the WFHN allows for the public and Department to identify the regulations and provisions of the WFMP with which operations must comply.

**1094.8(g)** is necessary to ensure the protection of archaeological resources during implementation of the WFHN.

**1094.8(h)(including all provisions)** is necessary to ensure the protection of sensitive plant and animal species during implementation of the WFHN.

**1094.8(j)(including all provisions)** is necessary to ensure the protection of public trust resources during implementation of the WFHN.

**1094.8(k)** is necessary to require the disclosure of unique areas as defined in 14 CCR § 895.1.

**1094.8(l)** is necessary for compliance and enforcement.

**1094.8(m)** is necessary to ensure that operations under an approved WFMP will continue to provide adequate protection of public trust resources as the Forest Practice Rules evolve over time.

**1094.8(n)** is necessary to ensure that any new erosion control sites or 303(d) listings of waterbodies are taken into consideration and mitigated for during implementation of the WFMP. This section allows for the WFMP to adapt to changing conditions over time, and acknowledges that over such a large landscape not every erosion control site will be identified at the outset of the permit.

**1094.8(o – q)** is necessary for compliance and enforcement, and to ensure that the Licensed Timber Operator (LTO) is aware of the operational requirements of the WFMP and FPRs.

**1094.8(r)** is necessary for the Department to determine if the proposed culverts are adequately sized to pass the expected streamflows and associated debris at the location of installation.

**1094.8(s)** is necessary to ensure that potential impacts from operations to the beneficial uses of water have been adequately addressed.

**1094.8(t)** is necessary is necessary to provide information to the project proponent, public, Department, and LTO about programmatic ways in which tractor operations on steep or unstable slopes and roads and landings in close proximity to watercourses will be treated during implementation of the WFHN.

**1094.8(u)(including all provisions)** is necessary to provide a map to the project proponent, public, the Department, and the LTO to display geographically the area and resources that will be impacted by timber operations under the WFHN. This map gives a clear depiction of the locations where operations will occur, and allows for an evaluation of the surrounding environmental conditions that may be impacted by these operations.

**1094.8(v)** is necessary to provide to the Working Forest Landowner and LTO the FPRs that will be used for compliance and enforcement by the Department during operations under the WFHN.

**1094.8(w)** is necessary to provide Working Forest Landowners an expectation that proprietary information submitted to the Department will remain confidential. Landowners are specifically sensitive about disclosing growth and yield data to competitors or potential purchasers of their forest products. However, this information is important for the Department to review as part of a comprehensive evaluation of the WFMP. This provision ensures that providing this information will not result in the Working Forest Landowner being placed at a competitive disadvantage in the marketplace.

**1094.9** is necessary to allow for the RPF and Director to meet on-site to come to a mutually agreeable resolution that will provide protection to the public trust resource at risk and serve the interests of the Working Forest Landowner. The dynamic nature of timberlands requires that professional judgement be exercised in the design of a WFMP, this provision provides an opportunity for the RPF or Director to discuss why their professional judgement was exercised in a particular way, and a venue to provide for the professional judgement of both parties be included in the final decision.

**1094.10(a – l)** is necessary for compliance and enforcement to clearly identify the responsibilities of the plan submitter. As the owner of the plan, it is incumbent on the plan submitter to provide complete, accurate, and current information to the Department, RPF, and LTO, prior to filing a WFHN, so all provisions of the WFMP and applicable FPRs can be adhered to during implementation of the WFMP.

**1094.11(a – h)** is necessary for compliance and enforcement to clearly identify the responsibilities of the Registered Professional Forester (RPF), and the work that will be performed by the RPF. The Working Forest Landowner can employ any RPF of their

choosing for activities that require a RPF, this section identifies what specific services at a minimum the Working Forest Landowner can expect from a RPF in their employ.

**1094.12(a)(including all provisions)** is necessary because the LTO and RPF may be employed separately to perform services to the Working Forest Landowner. This provision ensures a minimum level of communication will occur prior to operations so that information regarding the provisions of the WFMP, applicable FPRs, and the protection of any sensitive resources can be transferred to the LTO responsible for operations under the WFHN.

**1094.13(a – c)** is necessary for compliance and enforcement to clearly identify the responsibilities of the LTO.

**1094.14** is necessary for the Department to know the timing of operations for the conduct of compliance and enforcement inspections.

**1094.15(a & b)**, is necessary to inform the public and regulated community where and when the Notice of Filing will be distributed for posting. The identified minimum distribution locations ensure that the public notice is available in predictable locations accessible to the general public. Inclusion of the assigned WFMP number allows for comments and communications regarding the contents of the WFMP to be directed to the appropriate WFMP on file.

**1094.16(a – c)** is necessary to ensure that the WFMP is distributed to the review team agencies for review and the public for solicitation of comments.

**1094.16(d)(including all provisions)** is necessary to ensure the public and review team agencies are notified of any significant changes to the WFMP while under review, and are provided the opportunity to submit comments on the changes prior to plan approval.

**1094.17(a)(including all provisions)** is necessary to establish a minimum number of days the WFMP will be open for public comment that takes into account the complexity of the plan as determined by the total acreage. These time periods were established to give the public and review team agencies adequate time to fully comprehend the contents of the proposed WFMP.

**1094.17(b)(including all provisions)** is necessary to identify the process and timeline upon which a WFMP will be reviewed for approval. The timeline assures the plan submitter that the Department will respond to their request for review of the WFMP in a timely manner.

**1094.17(c)** is necessary to provide a basis for plans with deficiencies to be returned.

**1094.17(d)** is necessary to allow for the Department and Working forest Landowner to work out mutually agreed upon extensions when the timelines established in section (b)

cannot be met without requiring the denial and return of the WFMP. WFMPs will be large, and may be complex and special circumstances may warrant extension of the identified review times.

**1094.17(e)(including all provisions)** is necessary to establish an appeals process when a WFMP is denied. This provides a layer of oversight to the process ensuring that WFMPs are not denied arbitrarily or capriciously.

**1094.18** is necessary because numerous agencies in California's government have jurisdiction over public trust resources that may be impacted by timber operations. Each agency brings expertise on the resource under their jurisdiction to ensure a complete review of the WFMP. This process also brings a level of efficiency to the permitting process as most timber management activities also require separate permits from the California Department of Fish and Wildlife and a Regional Water Quality Control Board. In most instances, the environmental review by this interdisciplinary review team provides the California Environmental Quality Act (CEQA) coverage for these additional permits.

**1094.19** is necessary to establish a process by which the information provided in a WFMP under review may be modified and brought into a condition where it can be approved.

**1094.20** is necessary to inform the plan submitter of WFMP approval.

**1094.21** is necessary to inform the public and review team agencies of WFMP approval. Including the responses to significant environmental points provides the public and review team agencies with the rationale with which the Director rejected those points, or identifies the sections of the WFMP which, in the Director's view, adequately address those points.

**1094.22** is necessary to inform the public and regulated community where and when the Notice of Conformance will be distributed for posting. The identified distribution location ensures that the Notice of Conformance is available in a predictable location accessible to the general public.

**1094.23(a)(including all provisions)** is necessary to establish review criteria by which an approved WFMP may be substantially modified. This section provides the performance standards by which substantial modifications will be judged for inclusion in the approved WFMP to the project proponent, public and regulated community.

**1094.23(b)** is necessary to establish a minimum number of days substantial modifications to the WFMP will be open for public comment which takes into account the scale of modifications proposed regarding the addition of acreage to the WFMP. These time periods were established to give the public and review team agencies adequate time to fully comprehend the contents of the proposed modifications.

**1094.23(c)(including all provisions)** is necessary to identify those modifications to the plan that the Board has determined may have a significant adverse impact on public trust resources and requires evaluation by the review team agencies and public. Disclosing these creates the expectation to the public and regulated community that changes of this nature will be subject to the established timelines and review processes identified in subsections (a) and (b).

**1094.24(including all provisions)** is necessary to establish a process by which the Director will be informed of minor modifications to the WFMP without disrupting ongoing operations.

**1094.25(a) & (b)** are necessary to establish a process to notify the Department when work is complete so the Department may conduct inspections to determine if operations were conducted in compliance with the WFMP and applicable FPRs.

**1094.26** is necessary to establish a process for the Department to inspect completed work for compliance with the WFMP and applicable rules, and take corrective actions when warranted, to ensure operations do not have significant impacts on public trust resources.

**1094.27(a)(including all provisions)** is necessary to inform the timber owner(s) or the Designated Agent of the obligation to meet minimum stocking standards and file a report with the Director in a specified time frame, therefore ensuring the productivity of the state's timberlands is maintained.

**1094.28** is necessary to give the Department authority to verify compliance with the minimum stocking standards, and take corrective action if needed, to ensure the productivity of the state's timberlands is maintained. This subsection also informs the regulated public of the consequences of not meeting stocking standards in the specified time frame.

**1094.29(a)(including all provisions)** is necessary to inform the public and regulated community when the five (5) year review will be noticed and establishes a reasonable time period for the public to submit comments that may be considered as part of the review. The identified minimum distribution locations ensure that the public notice is available in predictable locations accessible to the general public.

**1094.29(b)** is necessary to inform the public and the regulated community of the timing for five (5) year review meeting to occur, who may participate, what specifically will be subject to review, how a field inspection may be initiated, and when it would occur. Requiring the five (5) year plan summary be accessible to the public ensures the public will be reasonably informed about this part of the process.

**1094.29(c)** is necessary to limit the scope of the review to compliance with the content and procedures agreed to in the approved WFMP, and is not re-opening the entire WFMP for re-approval at each five (5) year review. The inclusion of an analysis of

episodic events is necessary to determine if significant changes to the growth and yield assumptions of the WFMP has occurred in the preceding five (5) year period. The requirement for the Working Forest Landowner(s) to provide information not readily available to the Department is necessary to ensure the interdisciplinary review team has the information necessary to conduct a thorough review. Providing the findings of the five (5) year review to the Working Forest Landowner(s) ensures the review process is transparent to the Working Forest Landowner(s).

**1094.29(d)** is necessary to disclose to the public and regulated community how potentially significant adverse impacts to the environment identified in the five (5) year review process would be addressed. This is necessary to prevent degradation to public trust resources during implementation of the WFMP.

**1094.29(e)** is necessary to ensure the Department completes the five (5) year review in a timely manner. This subsection provides assurances to the public and regulated community that the review has a specified date of conclusion and will not be open-ended.

**1094.29(f)** ensures the public will have access to the findings of the five (5) year review in a location readily accessible to the public. This is necessary to provide transparency in the review process and allow the public to be informed on the performance of the WFMP.

**1094.29(g)** is necessary to provide Working Forest Landowners an expectation that proprietary information will remain confidential when submitted to the Department as part of the five (5) year review process. Landowners are specifically sensitive about disclosing growth and yield data to competitors or potential purchasers of their forest products. However, this information is important for the Department to review as part of a comprehensive evaluation of the WFMP. This provision ensures that providing this information will not result in the Working Forest Landowner being placed at a competitive disadvantage in the marketplace.

**1094.30(a)** is necessary to ensure an acquiring timberland owner(s) is notified of the existence of a WFMP and the acquiring timberland owner's responsibility to notify the Department should they want to assume responsibility for the WFMP. Providing a copy of this notification to the Department allows the Department to determine if the process described in subsection (b) is necessary.

**1094.30(b)** is necessary to provide notification to an acquiring timberland owner(s) of the existence of a WFMP should the transferring timberland owner(s) fail to do so.

**1094.30(c)** is necessary to provide the acquiring timberland owner(s) enough time to evaluate the provisions within the WFMP while providing the Department with assurance that the decision will be made in a timely manner. Providing this decision in writing gives the Department a record for the WFMP file indicating that the acquiring landowner intends to assume the responsibilities associated with the WFMP for

compliance and enforcement. The provision allowing the Department to cancel a plan, after the time period expires, will prevent the Department from holding open for an indefinite period of time a WFMP that has no responsible Working Forest Landowner.

**1094.30(d)** is necessary to reduce enforcement issues associated with multiple landowners participating in a single WFMP, which CAL FIRE has experienced with the NTMP. The Designated Agent creates a single point of contact for all landowners participating in a WFMP. The Designated Agent also provides a responsible party during any compliance and enforcement issues resulting from any deficiencies during WFMP operations.

**1094.30(e)** is necessary to prevent these regulations from creating a new crime that may burden local law enforcement agencies.

**1094.30(f)** is necessary to ensure the productivity of the state's timberlands is maintained after transfer of a WFMP to a new owner. The stocking standards have been designed to maintain an adequate number of commercial trees on a site to realize the productive capacity of the soil through the growth of commercial tree species.

**1094.31(a)** is necessary to provide a method by which a WFMP may be terminated at the discretion of the Working Forest Landowner(s). To maintain the Department's enforcement authority for operations under a WFMP, cancellation of a WFMP cannot occur until all provisions, including the obligation to meet stocking requirements, have been met on land covered by a WFHN. This provision is necessary to ensure the continued productivity of the state's timberlands.

**1094.31(b)** is necessary to prevent operations that do not meet the objectives of uneven aged management from realizing the permitting efficiencies afforded by the WFMP. Similar to the NTMP, these permitting efficiencies are only provided by statute [PRC § 4597.1(j)] to landowners committed to maintaining, restoring, or creating uneven aged managed timber stand conditions. Providing an appeals process is necessary to provide recourse to the project proponent and prevent the Department from cancelling a WFMP in an arbitrary or capricious manner.

**1094.32(a)** is necessary to provide a process for timberland owners' with an NTMP who acquire ownership of more timberland to transition to a WFMP in a streamlined manner. Allowing this transition to occur through the substantial deviation process allows public participation in the process, while reducing the regulatory burden on the aspiring Working Forest Landowner.

**1094.32(a)(1)** is necessary to allow timber operations to continue during the time it takes to develop the additional information required, and for the Department to review the proposed transition to a WFMP.

**1094.32(a)(2)** is necessary to prevent landowners from continuing to operate under the NTMP after increasing their ownership beyond the 2,500 acre cap imposed by the

NTMP if they have not made progress toward transitioning to a WFMP. Being allowed to conduct timber operations under the NTMP after the total ownership exceeds the cap is an opportunity in recognition that a WFMP takes time and capital to prepare. Giving the Department authority to cancel the NTMP of a landowner that continues to operate without evidence of significant progress towards the transition to a WFMP is necessary to prevent landowners from taking advantage of this opportunity.

**1094.32(a)(3)** is necessary to provide clear direction to the public and regulated community what information is required to be provided to the Director for review of a substantial deviation to transition a NTMP to a WFMP.

**1094.32(b)** is necessary to allow for Agency and public review of any additional timberlands being added to an existing WFMP. This is necessary to allow the interdisciplinary review team agencies and the public an opportunity to identify and consider any potential significant environmental impacts that may occur from operations under the approved provisions of the WFMP on the additional timberlands.

**1094.33** informs Working Forest Landowners of their eligibility to apply for a Safe Harbor Agreement in conjunction with an application for a WFMP, and encourages them to do so by identifying the source of funding for all review costs associated with a Safe Harbor Agreement. Applying for a Safe Harbor Agreement during WFMP review would lead to permitting efficiencies for the landowner, and if approved, could protect the landowner from future negative economic consequences associated with creating habitat for endangered species.

**1094.34** informs the public and regulated community that a person with a WFMP may still be eligible for state restoration grants. This is necessary because many state restoration grants exclude work that is otherwise required to be completed under a timber harvesting plan.

**1094.35** is necessary to exclude landowners from the Southern Subdistrict of the Coast Forest District from applying for a WFMP if they are otherwise eligible. The Southern Subdistrict was specifically excluded from participation by the Legislature in PRC § 4597.22.

**1104.1(i)(2)** is necessary to exempt, from this paragraph, harvesting of large old trees when done in compliance with an approved WFMP that addresses large old tree retention. Adding the WFMP to this section prevents the regulated public from duplicating the analysis of large old trees contained in the approved WFMP to comply with the provisions this paragraph.

**1115.3** is necessary to inform the public and the regulated community about the conduct of a public hearing at the request of the board of supervisors or planning commission of any county with special rules. Adding the WFMP to this list allows counties with special rules to treat the WFMP in a consistent manner with other Plans.

**Technical Rule Addendum Number 5, Sections I(C) and II(C)** is necessary to allow RPFs the flexibility to use site specific spacing guidelines appropriate for local conditions when designing rolling dips and ditch drains consistent with the guidance for other Plans. This is necessary to guide the adequate drainage of roads and prevent sediment discharge into watercourses.

## **Documents Relied Upon**

The following changes are being made to the list of documents relied upon in development of this regulatory package.

1. Strike document #3: Davis, Lawrence S. and K. Norman Johnson. *Forest Management*. McGraw-Hill Book Company, 1987. Third edition.
2. Add the following document: California Department of Forestry and Fire Protection. *NTMP Expansion Study*. January, 2013.

## **Facts, Evidence, Documents, Testimony, or Other Evidence Relied Upon to Support Initial Determination in the Notice that the Proposed Action Will Not Have a Significant Impact on Business**

This initial determination was based on contemplation, by Board staff, of the economic impact of each provision of the proposed action and relies on the decades of experience that Board staff has practicing forestry in California.