

Board of Forestry and Fire Protection

SUPPLEMENTAL STATEMENT OF REASONS

“NTMP Amendments, 2019”

**Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 4,
Subchapter 4, 5, and 6, Article 12; &
Subchapters 7, Article 6.5**

The Board of Forestry and Fire Protection (Board) intends this Supplement to the Initial Statement of Reasons (ISOR) to reflect changes that have been made to the 45-Day proposed rule text and Initial Statement of Reasons, which was distributed on May 31, 2019.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL (pursuant to GOV § 11346.2(b)(1)) AND THE RATIONALE FOR THE AGENCY’S DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSE(S) OF THE STATUTE(S) OR OTHER PROVISIONS OF LAW THAT THE ACTION IS IMPLEMENTING, INTERPRETING OR MAKING SPECIFIC AND TO ADDRESS THE PROBLEM FOR WHICH IT IS PROPOSED (pursuant to GOV §§ 11346.2(b)(1) and 11349(a) and 1 CCR § 10(b)).

Amend § 1090

Previously, the Board proposed, within this section on rule application which identifies the equivalency of the terms Plan, THP, or Timber Harvesting Plan to also mean Nonindustrial Timber Harvesting Plan, amendments to those sections which were excluded from this equivalency. The Board intended to include only 14 § 1038 *et. seq.* from this exclusionary list, but erroneously included sections 1037.6 through 1037.11. The purpose of this amendment is to include these sections within the list of sections which are excluded from the aforementioned term equivalency. This amendment is necessary to clarify this exclusion and to make explicit these sections in order for accurate implementation and enforcement of these regulations.

Adopt § 1090.01(a)(1)

The definition of “Designated Agent” previously was designated by certification of all Working Forest Landowner(s) designated in a submitted or approved NTMP. This reference to Working Forest Landowners is erroneous as that designation is related exclusively to regulations related to the Working Forest Management Plan within 14 CCR § 1094 *et. seq.* The proposed amendment corrects this reference to Nonindustrial Tree Farmers, as appropriate within these regulations. This amendment is necessary to clarify the certification requirements for designation of a “Designated Agent”.

Amend § 1090.01(a)(2) & (3)

The proposed amendment adopts the statutory definition of the terms “Nonindustrial Timberland”, “Nonindustrial Tree Farmer”. The purpose of this amendment is to allow for the utilization of these terms within the regulations and to promote the clear understanding of the terms and the clarity of regulations where the terms are utilized. This amendment is necessary to clarify the meaning of the terms and to more accurately implement Public Resources Code (PRC) § 4593.2

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Amend §1650(c)(2)

The proposed amendment adopts the statutory definition of “nonindustrial timber harvest notice” for the term “Notice of Timber Operations”. The purpose of this amendment is to clarify the meaning of this term and to improve the clarity of regulations where the term is utilized. This amendment is necessary to clarify the meaning of this term and to more accurately implement Public Resources Code (PRC) § 4593.2.

Amend § 1090.1

The proposed amendment eliminates the use of the abbreviated term “Notice” to mean the defined “Notice of Timber Operations”. The purpose of this amendment is to eliminate any confusion surrounding the use of the term notice, given that several notices of various types are required within the NTMP regulations and the clarity of explicit terms provides a benefit to the overall clarity of the regulations. This amendment is necessary to both improve this clarity as well as to improve the implementation and administration of these regulations.

Amend § 1090.2

The proposed amendment identifies special county specific rules within the Northern Region, which are already extant, within the list of counties with special rules with which the noticing requirements are the same as for a THP. Previously, these regulations were not included within this list as this regulation was adopted in 1991 and the Northern Region rules within Lake county were not adopted by the Board until 2000, and were not amended here as an error of omission. This amendment is necessary to clarify that all county rules are inclusive within the identified list.

Amend § 1090.6

The proposed amendment eliminates a requirement that confirmation by a nonindustrial tree farmer that all necessary field work is functional and usable prior to submission of a Notice of Timber Operations. The purpose of this amendment is to eliminate a provision which may have been inconsistent with existing statute and regulation, or otherwise lacked clarity. The determination of what may be necessary field work is likely to fall within the scope of the professional practice of forestry as identified within the Professional Foresters Law (PRC § 750 *et. seq.*), and is therefore the exclusive responsibility of a Registered Professional Forester, as identified within Chapter 10 of Division 1.5 of Title 14 of the California Resources Code. Given that there is no such requirement that a nonindustrial tree farmer also be a Registered Professional Forester, this purpose of the elimination of this provision was to address this potential inconsistency. Additionally, it may not be abundantly clear as to what field work may be “necessary” within this provision. The elimination of this provision is necessary in order to both promote the consistency of these regulations as well as to ensure clarity.

Additionally, the proposed amendment modifies the conditional requirement surrounding what manner of nonindustrial tree farmer is required to submit a Notice of Timber Operations to require that the notice be submitted by those individuals who plan to harvest timber on nonindustrial timberland that they control which is within the boundaries of an approved NTMP. The intent of this provision is to allow landowners with an approved NTMP to submit a Notice of Timber Operations to the Department in order to harvest timber on their property. The purpose of this amendment is to clarify this requirement and to make it consistent with the requirements of PRC § 4594, which authorizes such a regulatory process. This amendment is necessary to allow such clarity and consistency of regulations and statute.

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Amend §§ 1090.6, 1090.7, 1090.9, 1090.10, 1090.11, 1090.12, 1090.14, 1090.17, 1090.25, and 1090.26

The proposed amendments to these sections include use of newly defined terms pursuant to 14 CCR § 1090.01 within the existing sections. The purpose of these amendments is to improve the clarity of these provisions by using defined terms of improved clarity but which are consistent in application with all of the existing provisions. These amendments are necessary to improve this clarity as well as to provide consistency with all of these provisions and more accurately implement the NTMP statutes, including PRC § 4593.2.

Non-substantive Amendments

Defined terms and proper nouns have been capitalized throughout for grammatical purposes and make apparent their use as defined terms pursuant to 14 CCR § 895.1 and non-defined terms have been made lowercase.