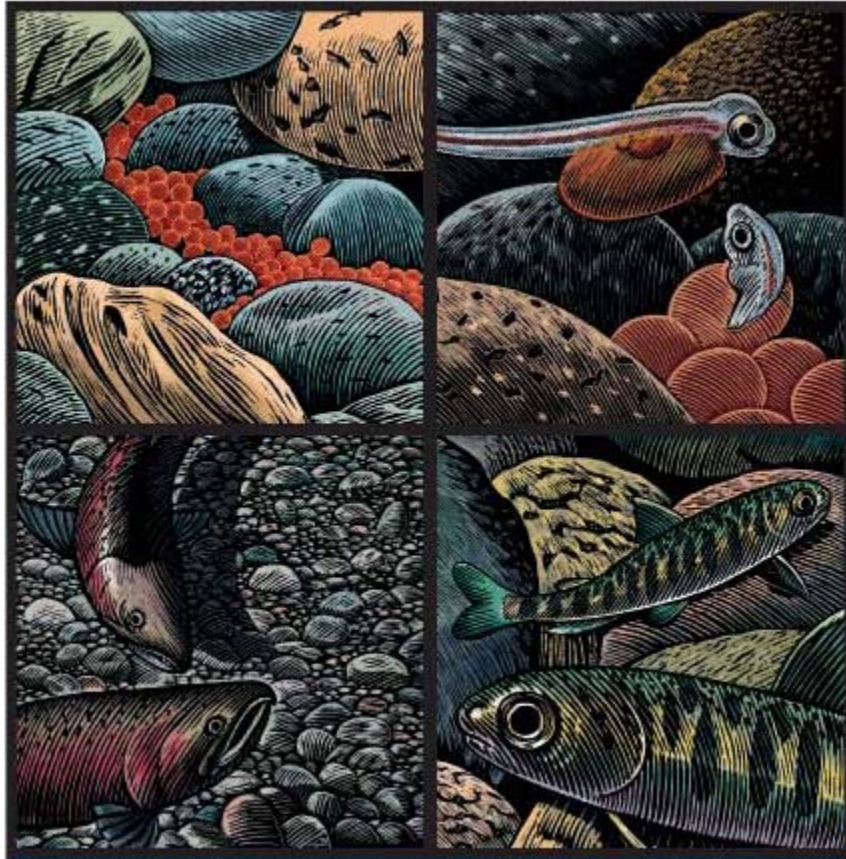


Coho Salmon Timber Regulations: Guidance for Timber Operations



California Department of Forestry and Fire Protection

California Department of Fish and Game

February 2008

Table of Contents

Department of Fish and Game (DFG) and Board of Forestry and Fire Protection (BOF) Rules	2
Will Timber Operations Occur in a Watershed with Coho Salmon?.....	2
Timber Operations in a Watershed with Coho Salmon	2
Determining Potential Impacts to Coho Salmon	4
Will Timber Operations Result in Significant Impacts to Coho Salmon?.....	4
Will Timber Operations Take or Likely Take Coho Salmon?.....	4
Revise the Plan to Avoid Incidental Take.....	4
Incidental Take Permit Process.....	5
Preconsultation Is Encouraged.....	8
What About Nonindustrial Timber Management Plans and Associated Notices of Timber Operations?	8
Plan Amendments and ITP by Certification	9
Already Submitted Plans.....	9
Already Approved Plans	10
Plan Extensions.....	10
Miscellaneous Questions	11
Appendix I	14
Appendix II.....	17
Appendix III.....	18

Department of Fish and Game (DFG) and Board of Forestry and Fire Protection (BOF) Rules

The Department of Fish and Game (DFG) and the Board of Forestry and Fire Protection (BOF) recently adopted regulations for the protection of coho salmon with respect to timber operations. The BOF's regulations, entitled *Coho Salmon Incidental Take Assistance, 2007*, specify forest practice requirements in planning watersheds with coho salmon. The DFG's regulations, entitled *Incidental Take Permit Guidelines for Timber Operations, 2007*, specify conditions and circumstances when take of coho salmon is prohibited, when an incidental take permit is required, and when an incidental take permit is not required. The regulations set forth the process DFG will use when acting as a Lead, Responsible, or Trustee Agency under the California Environmental Quality Act to determine whether a timber operation will have potentially significant impacts to coho salmon. They also outline various options for applying for an incidental take permit, including an expedited certification process that calls for the incorporation of protective measures specified in the new BOF rules into timber harvesting documents.

This document is a guide to these DFG regulations and BOF rules for registered professional foresters (RPFs) preparing harvesting plans and submitting notices of timber operations under non-industrial timber management plans, and agency staff. This document is not itself regulatory. Any inconsistency or discrepancy between this document and the regulations is unintended. The DFG regulations are available online at: <http://www.dfg.ca.gov/news/pubnotice/docs/20071227-Final-DFG-2112.pdf>. The BOF rules are available online at: http://www.fire.ca.gov/CDFBOFDB/pdfs/2112reg050107revised_5_1.pdf.

Will Timber Operations Occur in a Watershed with Coho Salmon?

To begin the process of addressing potential impacts to coho salmon, including potential take, one must first ascertain whether the proposed timber operations will occur in a watershed with coho salmon. A list of such watersheds is found at: http://www.dfg.ca.gov/habcon/timber/files/Coho_Watershed_List_070912.pdf. If coho are not present in the watershed where proposed operations will occur, but they are documented in the watershed immediately downstream, potentially significant impacts may still occur (14 CCR § 787.9(b)(1)).

Timber Operations in a Watershed with Coho Salmon

If the proposed timber operations will occur in a watershed with coho salmon, then the provisions of 14 CCR §§ 916.9.1 [936.9.1] and 923.9.1 [943.9.1] will always apply. These standards are consistent with the current rules that apply in watersheds with threatened or impaired values (T or I Rules). They differ from the T or I rules only in the following ways:

14 CCR § 916.9.1 [936.9.1]

- A specific alternative is allowed per 14 CCR § 916.9.1(w) [936.9.1(w)]. The alternative must provide equal or better protection for coho salmon and achieve the goal of 14 CCR § 916.9.1 [936.9.1]. The alternative may only be included in a plan: i) after consultation and written concurrence from DFG prior to plan submittal and ii) with a clear demonstration of compliance with the issuance criteria described under Fish and Game Code § 2081(b) as determined by DFG. The California Department of Forestry and Fire Protection (CAL FIRE) cannot accept any such alternative where two or more agencies listed in PRC § 4582.6 and 14 CCR § 1037.3 have submitted written comments that lead to the conclusion that the proposed alternative will not meet the goal of 14 CCR § 916.9.1 [936.9.1] and the agencies participated in the review of the plan.

Please note that any alternative proposed under 14 CCR § 916.9.1(w) [936.9.1(w)] must include consultation and written concurrence from DFG prior to plan submittal. CAL FIRE will return un-filed any plan that proposes an alternative under 14 CCR § 916.9.1(w) [936.9.1(w)] that does not contain documentation of such consultation and written concurrence from DFG.

- Other alternatives to 14 CCR § 916.9.1 [936.9.1] may also be proposed in a plan per 14 CCR § 916.9.1(x) [936.9.1(x)] with written concurrence from DFG. There are two ways to proceed with alternatives per 14 CCR § 916.9.1(x) [936.9.1(x)]. First, one may propose an alternative per 14 CCR § 916.6 [936.6]. Second, one may propose an alternative pursuant to a coho salmon watershed evaluation. The watershed evaluation must include specific components in addition to all other applicable rules and be included in the plan. The concept comes from the process for acquiring an incidental take permit contained in 14 CCR § 787.4(a)(3).

As with the alternative allowed per 14 CCR § 916.9.1(w) [936.9.1(w)], alternatives per 14 CCR § 916.9.1(x) [936.9.1(x)]—whether per 14 CCR § 916.6 [936.6] or a coho salmon watershed evaluation-- must include written concurrence from DFG in order to be included in the plan. CAL FIRE will return un-filed any plan that proposes an alternative under 14 CCR § 916.9.1(x) [936.9.1(x)] that does not contain documentation of such written concurrence from DFG.

- In some specific instances, the operational provisions of 14 CCR §§ 916.9.1 [936.9.1] and 916.9.2 [936.9.2] do not apply to a plan. These instances are listed under 14 CCR § 916.9.1(y) and (z) [936.9.1(y) and (z)].

14 CCR § 923.9.1 [943.9.1]

- 14 CCR § 923.9.1 [943.9.1] contains three subsections not found in 14 CCR § 923.9 [943.9] (ref. (c), (d) and (h)). These subsections correspond to 14 CCR §§ 923.3(c) [943.3(c)], 923.3(g) [943.3(g)] and 914.8(c) [934.8(c)], respectively, which apply in T or I watersheds.

- In some specific instances, the operational provisions of 14 CCR §§ 923.9.1 [943.9.1] and 923.9.2 [943.9.2] do not apply to a plan. These instances are listed under 14 CCR § 923.9.1(i) and (j) [943.9.1(i) and (j)].

Determining Potential Impacts to Coho Salmon

For each plan located in a watershed with coho salmon, DFG will complete a Coho Salmon Impact Evaluation. If staff is available to fully evaluate the plan, DFG will use the evaluation to:

- Determine whether the proposed timber operations could result in potentially significant impacts to coho salmon (ref. 14 CCR § 787.9(b)(1)-(5) for a list of criteria representing potential significant impacts to coho salmon). DFG attendance on the pre-harvest inspection (PHI) may be necessary for this determination.
- Determine whether the proposed timber operations could result in take of coho salmon (ref. 14 CCR § 787.2(b)(1)-(8) for a list of activities that could potentially take coho salmon). DFG attendance on the PHI may be necessary for this determination.

The Coho Salmon Impact Evaluation will have a paper/office review portion, including an evaluation worksheet (see Appendix I), and, if needed, a field review portion. DFG's evaluation may also include information from a preconsultation, an inspection for a streambed alteration agreement, a PHI, or from previous knowledge of the watershed, road system, watercourse(s), or crossing(s), for example. If there are no concerns indicated by the paper/office review portion of the Coho Salmon Impact Evaluation, then DFG may have no further concerns regarding the proposed timber operations, for coho salmon, and may not need to attend the PHI.

Will Timber Operations Result in Potentially Significant Impacts to Coho Salmon?

If DFG concludes that the proposed timber operations will result in potentially significant impacts to coho salmon, then DFG will recommend measures to mitigate the impacts to a level less than significant consistent with 14 CCR § 1037.5(f). DFG's determination will be based on the results of all the information considered during the Coho Salmon Impact Evaluation. Documentation of potential significant impacts and recommended mitigation will be provided in DFG's PHI report.

Will Timber Operations Take or Likely Take Coho Salmon?

If DFG concludes that the proposed timber operations will, or are likely to, take coho salmon, then the plan proponent has two potential options: 1) revise the plan to avoid take, or 2) acquire an incidental take permit from DFG. DFG's determination will be based on the results of all the information considered during the Coho Salmon Impact Evaluation.

Revise the Plan to Avoid Incidental Take

If DFG determines the proposed timber operations could potentially take coho salmon and the plan proponent revises or incorporates specific measures into the plan that will avoid take, an ITP is not required per 14 CCR § 787.5(a). DFG's PHI report should document whether the proposed timber

operations will, or are likely to, take coho, and make recommendations for measures needed to avoid take, if it is possible to do so.

Incidental Take Permit Process

Acquire ITP from DFG

In cases where the proposed project is not revised to avoid take, the plan proponent will have to acquire an ITP from DFG. This can be done by one of four methods outlined in 14 CCR § 787.4(a) (see Appendix II for flowchart). The method contained in the Forest Practice Rules and which is the primary focus of these guidelines pertains to 14 CCR § 787.4(a)(1): Incidental Take by Certification. The other three are variants of the existing permitting process contained in 14 CCR § 783. Each of these four methods is discussed below.

ITP by Certification

DFG may issue an ITP by Certification when the plan incorporates all of the minimization and mitigation measures set forth in 14 CCR §§ 916.9.1(a)-(t) [936.9.1(a)-(t)], 916.9.2 [936.9.2], 923.9.1 [943.9.1], and 923.9.2 [943.9.2]. This means the plan proponent will have to revise the plan to incorporate all the additional protection measures contained in 14 CCR §§ 916.9.2 [936.9.2] and 923.9.2 [943.9.2], if they are not already provided therein, to be eligible for an ITP by Certification. In addition, the plan proponent must satisfy several DFG rule-based requirements for ITP by Certification per 14 CCR § 787.7(a). The portion of the process that requires incorporation of specific information into the plan will occur as a part of normal plan review during the public comment period. Additional DFG-rule-based requirements include:

a. Implementation and Effectiveness Monitoring

The plan must include implementation and effectiveness monitoring procedures and schedules. Monitoring that meets other regulatory requirements may suffice, as determined by DFG. The Applicant should pre-consult with DFG to assure acceptance of the proposed monitoring.

b. Financial Security for Performance

DFG requires that the permit applicant assure adequate funding to implement required measures in the plan, for monitoring implementation compliance, and for monitoring effectiveness of the measures. The full amount of the security must remain in place for the life of the permit. If DFG uses all or part of the security for performance, the permittee will be required to replenish the amount of the security to the full amount within 30 days of the use. Bear in mind that DFG may refuse to issue an ITP if the applicant has previously obtained an ITP by Certification of Compliance and the security for that permit was forfeited for failure to properly implement required measures.

DFG will accept the following instruments of financial security – pledged savings or trust account, certificate of deposit or irrevocable letter of credit, although other forms may be accepted upon DFG approval. Once the amount of the security is determined, DFG staff will consult with DFG legal staff to determine the appropriate form of the security. If needed, DFG can provide the landowner with an example of the appropriate instrument. The security

instrument must be delivered to the DFG Regional Manager (see list of addresses in Appendix III) by certified mail along with the Certification of Compliance (See Receipt of Certification below).

For approved nonindustrial timber management plans (NTMPs), provision of financial security will be required with submission of notice of timber operations (NTO), not at the time of NTMP approval.

When the ITP is issued using Certification, two components will be calculated for inclusion in the performance bond: a Road Component (see Table 1) and an Area Component (see Table 2). The Road Component is based on the schedule in Table 1 and applies to all roads within, and appurtenant to, the proposed THP or Notice of Timber Operations lying within a watershed with Coho salmon. The Area Component is based on the schedule in Table 2 and applies to zones and watercourses as listed in the table. The landowner and DFG staff will consult to determine the correct amount of the security.

Table 1. Road Component. Amount of Financial Security (14 CCR §§ 787.8(d)(1)(A)(i) through (vi).	
Amount	Application
\$5,000/mile	Roads within Class I Watercourse and Lake Protection Zones
\$2,500/mile	Roads within Class II Watercourse and Lake Protection Zones
\$1,000/mile	Roads within Equipment Exclusion Zones and Equipment Limitation Zones in Class III watercourses, inner gorges, and connected headwall swales
\$2,000/crossing	New, reconstructed, or temporary Class I watercourse crossings
\$500/crossing	Existing Class I watercourse crossings used without modification
\$1,000/crossing	Each new, reconstructed, or temporary Class II watercourse crossing
\$500/crossing	Existing Class II watercourse crossings used without modification
\$500/crossing	New, reconstructed, or temporary Class III watercourse crossings
\$250/crossing	Existing Class III watercourse crossing used but not reconstructed

Table 2. Area Component. Amount of Financial Security (14 CCR § 787.8(d)(2)(A)).	
Amount	Application
\$500/acre	All Watercourse and Lake Protection Zones (for Class I , Class II or Class III watercourses) and Equipment Exclusion Zones and Equipment Limitation Zones in Class III watercourses, inner gorges, and connected headwall swales

DFG will make every effort to return the Road Component security within 45 days of receipt of written request, upon completion of the Prescribed Maintenance Period, whether for a THP or at completion of an NTO conducted under an NTMP, and verification that each requirement has been properly implemented. Otherwise, the security will be all or partially forfeited if DFG determines the required measures were not properly implemented or remedied.

DFG will make every effort to return the Area Component security within 45 days of receipt of Notice of Completion, whether for a THP or for an NTO conducted under an NTMP, and a written request, provided that all requirements have been properly implemented. Otherwise, the security will be all or partially forfeited if DFG determines the required measures were not properly implemented or remedied.

c. Access for DFG

The Certification of Compliance language in 14 CCR § 787.7 contains consent language that satisfies the access requirement. By signing the Certification form, this requirement is met.

d. Receipt of Certification

The applicant must submit a signed Certification of Compliance form to DFG with the proposed THP and financial security attached. DFG has up to 30 days to review and approve or deny the Certification following receipt. DFG must conduct a jeopardy analysis per 14 CCR § 787.6. In order to approve a Certification, DFG must determine that jeopardy will not occur, or the applicant must incorporate measures to avoid jeopardy.

e. Plan Approval by CAL FIRE

The approved Certification of Compliance form is a valid Incidental Take Permit only after the applicant receives the approved Certification back from DFG and the THP is approved by CAL FIRE. Upon receipt of the approved Certification, the applicant should provide a copy to CAL FIRE. CAL FIRE may then approve the plan.

ITP from DFG by Incorporating Selected Measures

An applicant may receive an incidental take permit per 14 CCR § 783 by proposing select measures from 14 CCR §§ 916.9.1(a)-(t) [936.9.1(a)-(t)], 916.9.2 [936.9.2], 923.9.1 [943.9.1], and 923.9.2 [943.9.2].

ITP from DFG by Incorporating Watershed Evaluation-Based Measures

An applicant may receive an incidental take permit per 14 CCR § 783 by proposing watershed evaluation based measures. The components of a watershed evaluation are listed in 14 CCR § 787.4(a)(3).

ITP from DFG by Incorporating Alternative Measures Proposed by Applicant

An applicant may receive an incidental take permit per 14 CCR § 783 by proposing alternative measures. The applicant is responsible for providing enough information about the proposed alternative measures to be evaluated by DFG.

Preconsultation Is Encouraged

Preconsultation with DFG prior to plan submittal is encouraged. DFG will make its best effort to get out into the field with plan proponents and timberland owners to educate the regulated public about how to best address timber operations in watersheds with coho salmon. Preconsultation will allow DFG and the plan proponent to develop measures to avoid take of coho for incorporation into the proposed plan, thereby eliminating the need for acquiring an ITP. In addition, any potentially significant impacts to coho can be addressed through the development of appropriate mitigation measures for incorporation into the proposed plan. Preconsultation may help one avoid the need for a PHI, or at least DFG participation on the PHI. In fact, in its ITP regulations, DFG strongly recommends preconsultation prior to submittal of the ITP Certification and attached plan or NTO in order to facilitate acceptance and return receipt of the Certification under 14 CCR § 787.4(a)(1).

What About Nonindustrial Timber Management Plans and Associated Notices of Timber Operations?

Any newly submitted NTMPs will have to go through a similar process as described for plans above.

The process for existing NTMPs will likely be different. To ensure that the NTMP and NTO adequately address potentially significant impacts to, and take of, coho salmon, the following should be addressed:

- When the RPF submits the NTO, he or she must include a statement that no listed species has been discovered in the cumulative impacts assessment area since the approval of the NTMP (14 CCR § 1090.7(h)). If the NTMP has been submitted since the State-listing of coho salmon (listing occurred on March 30, 2005), and the plan does not address this listed status, then the NTMP must be amended to address the current status of coho. CAL FIRE will treat such an amendment as minor or substantial based on its content and the manner in which it changes timber operations, if at all.
- Upon NTO submittal, the RPF must certify that the notice will carry out either best management practices for the protection of the beneficial uses of water, soil stability, forest productivity, and wildlife, as required by the current rules of the Board, or the NTO is consistent with the NTMP and will not result in significant degradation of the beneficial uses of water, soil stability, forest

productivity, or wildlife, or be in violation of applicable legal requirements (14 CCR § 1090.7(1)). To address this Certification relative to potential impacts and take of coho, the RPF should consider the following:

- Has the NTMP already incorporated measures to mitigate potential significant impacts to, and avoid take of, coho salmon? If the plan has, then it may not need to be amended to incorporate appropriate measures to mitigate significant impacts and to avoid take.
- Does an NTO submitted in conformance with the operations proposed in the NTMP have the potential to result in significant impacts to, or take of, coho salmon? If yes, then the plan should be amended to incorporate appropriate measures to mitigate potentially significant impacts and to avoid or minimize and mitigate take before submittal of the NTO. Preconsultation with DFG will help the timberland owner and RPF ascertain what measures may be needed to avoid potentially significant impacts to coho and to avoid, or minimize and fully mitigate, take of coho.

Please note that as a part of acquiring an ITP by Certification that the NTO must incorporate the protection measures contained in 14 CCR §§ 916.9.1 [936.9.1], 916.9.2 [936.9.2], 923.9.1 [943.9.1], and 923.9.2 [943.9.2] per 14 CCR § 787.7(a)(1). Since the NTO must be consistent with the NTMP, the NTMP will have to be amended to incorporate any such measures, which are proposed in the NTO. As with newly submitted plans, the plan proponent also will have to satisfy the DFG rule-based requirements for ITP by Certification per 14 CCR § 787.7(a).

Plan Amendments and ITP by Certification

Any existing ITP for a plan may not be valid once the plan has been amended. It will depend on the nature of the change in timber operations, if any. The DFG ITP rules stipulate that the ITP by Certification authorizes incidental take of coho salmon from the timber operations described in the specific plan or NTO that is attached to the Certification. Any incidental take from operations that deviate from such timber operations, whether under subsequent amendments to the plan or otherwise, is not authorized by the permit issued for the unamended plan (14 CCR § 787.7(b)(2)). Any change to a plan, whether a substantial or minor amendment, could affect the validity of the ITP.

Already Submitted Plans

In watersheds with coho salmon, plans that have been submitted but not approved should already incorporate the current T or I rules. Since the T or I rules are the equivalent of the rules that apply in all watersheds with coho salmon, their application should provide adequate protection unless take is likely, or will occur, or potentially significant impacts will result from the proposed timber operations. DFG should evaluate for each of these possible occurrences on the PHI. Thus, if the PHI has occurred and no significant adverse impacts have been identified and take does not appear likely, then no subsequent changes should be necessary to the plan other than to state that it is located in a watershed with coho salmon and to indicate that the measures contained in 14 CCR § 916.9.1 [936.9.1] have been incorporated. Potential changes to the plan will depend on the results of

DFG's evaluation of the proposed timber operations relative to significant adverse impacts to coho salmon and the likelihood of take occurring.

Already Approved Plans

PRC § 4583 requires that all timber operations conform to any rule changes made after plan approval, unless prior to the adoption of such changes, substantial liabilities for timber operations have been incurred in good faith and in reliance upon the standards in effect at the time the plan became effective and the adherence to such new rules will cause unreasonable additional expense. The plan proponent must provide a reasoned argument stating as such. However, any existing plan that has not incorporated adequate protection for coho salmon will need to be revised to do so. Incorporation of the T or I rules provides basic protection. As long as the T or I rules are applied, it is unlikely that the plan proponent will have to revise the plan to incorporate more stringent standards. Regardless of the incursion of substantial liabilities, the plan must provide adequate protection to avoid take of coho or the plan proponent must apply for an ITP in order to comply with CESA.

Plan Extensions

PRC § 4590(a)(2)(B) allows for the extension of the term of the plan if all timber operations are in conformance with applicable rules and regulations, upon the filing of the notice of extension. This means that any plan located in a watershed with coho salmon will have to be brought into conformance with the rules that apply therein in order to qualify for the extension. If the plan incorporates the T or I rules, then it is likely in conformance with the rules that apply in watersheds with coho salmon. Regardless of the incursion of substantial liabilities referred to in PRC § 4583, the plan proponent must provide adequate protection to avoid take of coho or the plan proponent must apply for an ITP in order to comply with CESA.

Miscellaneous Questions

1. 14 CCR §§ 916.9.2 [936.9.2] and 923.9.2 [943.9.2]: Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon.

Question: Could there be cases where one or the other rule section would apply but not both—such as in the case of an area where the roads were in good shape but the watercourses were not?

Answer: If the plan proponent is getting an incidental take permit by certification, all sections apply. If the plan proponent desires to incorporate only those measures necessary to avoid take, there may be any number of measures that are used to achieve avoidance – including those in 14 CCR §§ 916.9.2 [936.9.2] or 923.9.2 [943.9.2].

2. 14 CCR § 916.9.2(d)(3)(D) [936.9.2(d)(3)(D)]: Outer Band [of Class II WLPZ] with >50 percent watercourse sideslope: From 50-125 feet, retain a minimum of 65 percent post-harvest overstory canopy. WLPZ width may be reduced to 100 feet for helicopter or cable yarding operations. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

Question: Is the Class II WLPZ width on slopes over 50 percent redefined as 125 feet here?

Answer: Yes, the Class II WLPZ width is re-defined under 14 CCR § 916.9.2(d)(3)(D) [936.9.2(d)(3)(D)] as 125 feet on slopes over 50% on blue line streams on USGS maps.

3. 14 CCR § 916.9.2(e) [936.9.2(e)]: Class III Watercourse Protection Measures – The following shall apply to all Class III watercourses within watersheds with coho salmon in or adjacent to harvest units where evenaged management, rehabilitation of under-stocked stands, or variable retention prescriptions are proposed.

Question: Does this apply to all even-aged silvicultural prescriptions or to even-aged regeneration step harvests?

Answer: It applies to all even-aged prescriptions.

Question: Does this apply to alternative prescriptions closest to any even-aged silvicultural prescriptions or only to those closest to even-aged regeneration step harvests?

Answer: It applies to any alternative prescription closest to an even-aged silvicultural prescription.

4. 14 CCR § 916.9.2(e)(7) [936.9.2(e)(7)]: Tractor yarding is prohibited within the ELZ, except for the use of feller-bunchers and shovel yarding that minimize soil compaction and disturbance.

Question: Does this exclude Class III tractor crossings not involving a feller buncher or shovel logging?

Answer: No. The licensed timber operator can use approved tractor road crossings.

5. 14 CCR § 916.9.2(f)(3) [936.9.2(f)(3)]: All proposed road construction or reconstruction shall be reviewed by a Professional Geologist and disclosed and incorporated in the plan as appropriate prior to plan approval.

Question: Does “as appropriate” apply to the road reconstruction and construction or to disclosure and incorporation?

Answer: The intent of the rule is to have a Professional Geologist review the road reconstruction and construction, but provide CAL FIRE the ability to determine whether the proposal is appropriate and then ensure that only road reconstruction and construction that are appropriate are incorporated into the plan.

6. 14 CCR § 923.9.2(c)(2) [943.9.2(c)(2)]: The [road surface and drainage conditions for all road segments within the plan area and appurtenant to proposed operations] assessment shall be subject to approval by the Director, with written concurrence by DFG. Additional field inventory, work sites, and/or alternative treatments may be required.

Question: In what form will we require this written concurrence and when will it be required?

Answer: In general, written concurrence, where required from DFG, will come in any form (email, letter, PHI report, etc.), and it will have to be provided during the public comment period as a part of normal plan review. However, since this rule section only applies when DFG has determined take is likely and the plan submitter has chosen to pursue an ITP via certification, CAL FIRE cannot approve the plan until the applicant provides a Certification of Compliance form approved by DFG. The Certification of Compliance also serves as concurrence by DFG.

Question: Will the requirement for written concurrence always mean that DFG has to attend the PHI?

Answer: No. There may be some instances where DFG will not attend the PHI but will approve of the road surface and drainage assessment.

7. 14 CR § 923.9.2(d) [943.9.2(d)]: Within WLPZs, any new road or landing construction, reconstruction, new watercourse crossings, use of Class I fords or opening of old roads (except for the purpose of decommissioning) will be subject to approval by the Director, with written concurrence by DFG. The Director will only approve such practices where protection for aquatic habitat provided by proposed practices is at least equal to the protection provided by the use of alternate routes or locations outside of the WLPZ.

Question: What constitutes “opening of old roads?”

Answer: Opening an old road involves preparing for use an existing road that is no longer accessible to a standard production four-wheel-drive vehicle, but that does not require reconstruction.

8. 14 CCR § 923.9.2(j) [943.9.2(j)]: Use of unpaved roads shall cease when precipitation is sufficient to generate overland flow off the road surface, use of any portion of the road results in rutting of the road surface, or a stable operating surface can not be maintained.

Question: What is meant by “unpaved roads?”

Answer: Asphalt or concrete is paved. Chip-sealed or chemical treatments are not paved. This may have to be evaluated in field.

Question: Are rocked roads considered “paved?”

Answer: No.

Appendix I

Coho Salmon Impact Evaluation Work Sheet

DRAFT COHO SALMON IMPACT EVALUATION WORKSHEET (3/12/08 version)

1. Plan Number:	
2. Plan Name:	
3. RPF:	4. Timberland Owner:
	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Did RPF Preconsult with DFG?	a) Date(s):
6. Did DFG Evaluate the Plan?	a) <input type="checkbox"/> Desk b) <input type="checkbox"/> PHI c) <input type="checkbox"/> No
7. DFG Reviewer:	
8. Office Review Date(s):	
9. Field Visit Date(s):	
10. Planning Watershed(s) with coho salmon:	
Name	Number
11. USGS 7.5-minute quadrangle(s):	
12. Name of closest stream with coho salmon:	
13. Approximate distance of project to nearest known coho salmon presence: _____ stream miles	

14. Activities proposed in the Plan with potential to take coho salmon	
<input type="checkbox"/>	a) Construction, maintenance, replacement and removal of watercourse crossings or fords
<input type="checkbox"/>	b) Watercourse bank stabilization
<input type="checkbox"/>	c) Other in-channel operations
<input type="checkbox"/>	d) Development, maintenance, and operation of water diversion and drafting sites
<input type="checkbox"/>	e) Development, maintenance, and use of road segments, skid trails, landings and associated drainage facilities hydrologically connected to watercourses
<input type="checkbox"/>	f) Any physical modification of a channel zone including removal of LWD from a Class I channel zone
<input type="checkbox"/>	g) Unstable areas associated with operations
<input type="checkbox"/>	h) Timber operations in Class I WLPZ
<input type="checkbox"/>	i) Other(s):

COHO SALMON TAKE EVALUATION:	
15. Direct Impacts	
Could take occur as a direct result of in-stream activities (crushing or displacement of fish or eggs)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> a) Crossing construction	<input type="checkbox"/> c) Bank stabilization
<input type="checkbox"/> b) Construction of drafting sites	<input type="checkbox"/> d) Use of wet fords
16. Sedimentation	
Could take occur as a result of the addition of sediment? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> a) Infiltration of sediment within, or deposition on, spawning gravels and/or redds	<input type="checkbox"/> d) Creation of sediment barriers inhibiting upstream or downstream movement
<input type="checkbox"/> b) Increase turbidity, reducing prey visibility and food intake	<input type="checkbox"/> e) Embedding or compacting spawning substrate
<input type="checkbox"/> c) Filling in pools, reducing or eliminating escape cover	

17. Flow modification	
Could take occur as a result of flow modification? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> a) Decrease in flows, stranding or displacing fish during water drafting	<input type="checkbox"/> c) Change in peak flows having an undesirable effect for upstream migrating adults
<input type="checkbox"/> b) Increase in flow scouring redds and displacing fish	<input type="checkbox"/> d) Creation of velocity barriers

18. LWD	
Could take occur as a result of in-channel large woody debris removal or modification? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> a) Damage or loss of habitat, or displacement of fish from in channel activities	<input type="checkbox"/> b) Destabilization of channel, mobilization of sediment damaging downstream habitat

19. Riparian Canopy	
Could take occur as result of canopy reduction? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> a) Removal of vegetation will result in destabilization of banks	<input type="checkbox"/> c) Reduction in shade, increasing water temperatures
<input type="checkbox"/> b) Reduce escape cover	

20. Barriers	
Could take occur due to creation of migration barriers? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> a) Installation of crossings with inadequate fish passage	<input type="checkbox"/> b) Velocity barriers

21. Other
Could take occur as a result of other factors? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe on next page or additional pages

22. CESA Take Determination (check one)
<input type="checkbox"/> a) As proposed, coho salmon take will not or is not likely to occur.
<input type="checkbox"/> b) Project includes all measures recommended by DFG necessary to avoid take.
<input type="checkbox"/> c) <u>Take is likely to occur.</u> Project includes all FPR minimization and mitigation measures. Applicant may apply for ITP by Certification under 787.4(a)(1)
<input type="checkbox"/> d) <u>Take is likely to occur.</u> Applicant may apply for ITP under 787.4(a)(2), 787.4(a)(3), or 787(a)(4)

23. CEQA Significant Impact Evaluation (check applicable)
<input type="checkbox"/> a) One or more cohorts of coho salmon return in low numbers or not at all, and:
<input type="checkbox"/> b) Timber operations will contribute net additional sediment to spawning and rearing habitat within the planning watershed or the planning watershed immediately downstream.
<input type="checkbox"/> c) Planning watershed is water temperature limited for coho salmon and timber operations will reduce shading within a Class I WLPZ accessible to coho salmon.
<input type="checkbox"/> d) Planning watershed is spawning or rearing impaired by excessive sediment and timber operations will reduce LWD recruitment potential into a coho salmon Class I.
<input type="checkbox"/> e) A substantial number of coho salmon will likely be taken.
<input type="checkbox"/> f) Timber operations will reduce access to habitat.
<input type="checkbox"/> g) Other

24. CEQA Significant Impact Determination (check one)
<input type="checkbox"/> a) Per 787.9(c), proposed timber operation impacts to coho salmon, including cumulative impacts, are less than significant.
<input type="checkbox"/> b) Per 787.9(c), proposed timber operation impacts, including cumulative impacts, are potentially significant. Propose mitigation measures to reduce potentially significant impacts to a level less than significant

DRAFT COHO SALMON IMPACT EVALUATION WORKSHEET (3/12/08 version)

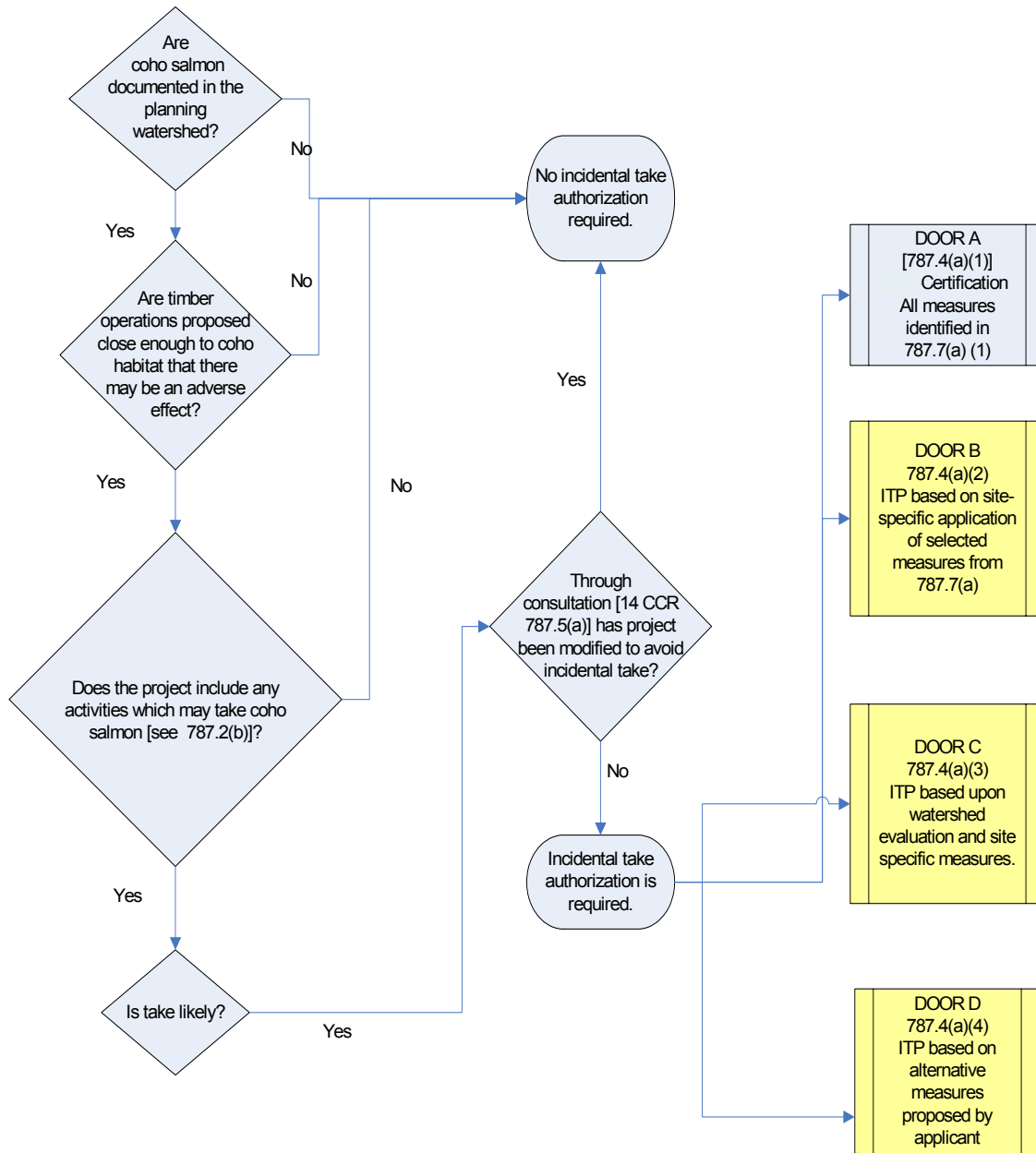
Additional explanation:

Potential Take Scenarios*	
Direct	Indirect
-Equipment crossings	-Hydrologically connected roads discharging sediment via surface erosion to Class I coho salmon watercourses
-Class I crossing construction	-Evenaged harvest on headwall swales connected to Class I coho salmon watercourses
-Class I water drafting site excavation	-Road construction on headwall swales connected to Class I coho salmon watercourses
-Class I water drafting	-Water drafting in Class II watercourses proximal to temperature or flow impaired Class I coho salmon watercourses
-Bank stabilization	-Installation of Class II or Class III crossings that may discharge substantial sediment to Class I coho salmon watercourses
	-Canopy reduction, increasing stream temperatures in coho salmon watercourses
	-Evenaged harvest on Class III watercourses with increased sediment discharge or debris torrent potential
	-Harvesting on unstable areas or inner gorges
	-Use of open planked bridges on Class I coho salmon watercourses
	-Destabilization of slopes or banks and delivery of sediment to channel
* Note: This is not a comprehensive list.	

Take Pathways		
Scenario	Effect	Life Stage Affected
Addition of sediment	Infiltration of sediment within, or deposition on, spawning gravels and/or redds	Eggs, alevins
	Reducing or eliminating escape cover	All life stages
	Filling in pool habitat, embedding or compacting spawning substrate, reducing habitat complexity and food production, increasing predation	All life stages
	Creation of sediment barriers inhibiting upstream and downstream migration	Alevins, juveniles and adults
Canopy reduction	Increase in chronic turbidity, reducing visibility, food intake, and food production	Juvenile overwintering
	Reduce shade and vegetation providing cover	All life stages
	Reduce riparian filter increasing probability of sediment delivery from timber operations (see addition of sediment)	All life stages
Bank stabilization	Reduction in shade, increasing water temperatures	All life stages
	Taking bank trees may result in bank failure, adding sediment to watercourse	All life stages
LWD	Loss of in-channel LWD reducing habitat complexity	All life stages
	Loss of LWD recruitment in riparian zone necessary for future habitat functions	All life stages
Flow	Decrease in flow stranding fish or dewatering redds	Eggs, alevins, juveniles
	Increase in flow scouring redds and displacing fish	Eggs, alevins, juveniles
	Change in peak flows that impede upstream migrating adults	Adults
Barriers	Problem culverts, other non-natural barriers impeding adult migration, juvenile movement	Adults, juveniles

Appendix II

Generalized Incidental Take Determination Procedure



**** Incidental Take authorized by 787.4(a)(2),(3) or (4) [Door B, C or D] are not self-certification options and must also comply with ITP application, review and approval procedures specified at 14 CCR 783.0 *et. seq.***

Appendix III

Department of Fish and Game Regional Offices

**Regional Manager
Northern Region
601 Locust Street
Redding, CA 96001**

**Regional Manager
Bay Delta Region
PO Box 47
Yountville, CA 94599**