

BOARD OF FORESTRY AND FIRE PROTECTION

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Forest Practice Committee
DRAFT Oak Woodland Management Board Policy

September 30, 2014

Native Oak Woodland Management 0334.6:

Purpose

The State Board of Forestry and Fire Protection (Board) adopts this board policy to clarify the application of the Forest Practices Rules (FPR), and proposing alternative to support the active management and enhancement of oak woodland resources on timberlands.

Background

The Board finds that native oak woodlands of California are a vitally important natural and economic resource. Native oak woodland habitats are extremely important to the fish, wildlife, and natural resources of California. Oak woodlands throughout California support a wide variety of wildlife species by providing habitat with feeding, breeding, cover, and related needs. In addition, native oak woodlands can benefit fishery resources by preventing the erosion of hillsides and stream banks, moderating water temperatures by shading and contributing nutrients and food-chain organisms to waterways. Native oak woodlands also provide substantial worth to landowners in the form of aesthetics, open space, recreation, wood products, range and property values, and these same values also provide certain public benefits.

The Board, along with the Fish and Game Commission, adopted in 1994 the Joint Policy on Hardwoods in recognition of the importance of hardwood resources and oak woodlands within the state along with the pressures that face the ecosystems that support oak species. The Joint Policy on Hardwoods also recognizes the continued need for the long-term perpetuation and geographic representation of hardwoods and oak woodlands across the landscape and the need for conservation management of these resources.

This Board policy assesses the terms and conditions of existing Board regulations and statutes to provide support to landowners and Registered Professional Foresters who wish to pursue the conservation of native oak woodlands through active management that focuses upon restoration and/or maintenance of native oak woodlands within the state. The regulations and statutes referenced below are provided in Appendix A of this policy.

Review of Relevant Regulations and Statutes

The Board finds that alternative prescriptions can be developed and approved by the Department for the purposes of conserving native oak woodlands. Such application utilizes oaks as Group B commercial species, maintains the affected area as timberland, and establishes that the Group B species are used to produce forest products.

The Board has adopted a definition of commercial species and specific lists of commercial species for each Forest Practice District (14 CCR § 895.1). Although the list of Group A and Group B commercial species varies by Forest District the definition is the same for each Forest District. As set forth in 14 CCR § 912.7, Group B commercial species, a category that contains selected oak species, can be utilized for meeting minimum stocking. Although 14 CCR § 912.7 does supply prescriptive standards in regards to proportionally of stocking of Group A and Group B commercial species in pre and post harvested stands, it also allow for exceptions to be approved by the Director. This approval is predicated upon the fact that the RPF supplies the required information as set forth in 14 CCR § 912.7(d)(1)(A) –(D) and that the intent of the Act is met per PRC 4513.

The definition of commercial species contains the caveat “Group A are now growing naturally or have grown naturally in the recorded past.” Group A species are likely now growing within oak woodlands where active management is desired. Through the Plan process and application of 14 CCR 912.7(d)(1)(B) it is incumbent upon the RPF to provide “a description of the current stand, including species composition and current stocking levels within the area of Group B species” therefore documenting pre-treatment conditions. Approved Plans, as defined by 14 CCR § 895.1, must provide documentation of the historic presence of Group A species within these landscapes. It is also important to note that many portions of the state have historical aerial photo coverage, LiDAR, vegetation type mapping and soils mapping that could be used to establish that Group A species occurred within the stands in the “recorded past.” In establishing this historical condition, the remaining Group B species would be the commercial species for which management is designed.

The intent of the Act applies to the “productivity of timberland” and therefore does not apply to areas where conversion of timberland has occurred or is intended. Therefore, management of oak woodlands under existing regulation could not represent conversion of timberland as defined in the Act and provided in PRC § 4526. Timberland, as defined in the Public Resources Code, is private land that is available for and capable of growing a crop of commercial species. Therefore, oak woodland management projects must result in the maintenance of “commercial species” upon completion of operations to demonstrate that the resulting timberland meets the intent of the Act.

In addition, it is also required that commercial species are “used to produce forest products.” Many forest products can be produced from oak woodlands, including, but not

limited to, firewood, hog fuel, landscape chips, pulp, small specialty saw logs, dimension lumber, flooring, and burl.

Conclusion

The Board finds that the Director possesses the authority, under existing regulation and as informed by statute, to approve Plans with proposals for oak woodland management where stocking would be partially or wholly met with Group B species.

Additionally, the Board finds that the contents of this policy apply to commercial timber operations pursuant to PRC § 4527. Non-commercial management of oak woodlands are not subject to the provisions of the California Forest Practices Act, but may be subject to other local, state, or federal laws and regulations. Pursuant to PRC § 4514, policies of the Board do not limit the power of a city or county or city and county to declare, prohibit and abate nuisances or the power of a state agency in the enforcement or administration of the law that it is specifically authorized or required to enforce or administer.

Appendix A: Relevant Regulations and Public Resources Codes (emphasis added)

14 CCR § 895.1. *Commercial Species* means those species found in group A and those in group B that are found on lands where the species in Group A are **now growing naturally or have grown naturally in the recorded past.**

14 CCR § 912.7, 932.7, 952.7 Resource Conservation Standards for Minimum Stocking [All Districts, note (b)(1)(D)]

The following resource conservation standards constitute minimum acceptable stocking in the Coast [Northern, Southern] Forest District after timber operations have been completed.

(d) The resource conservation standards of the rules may be met with Group A and/or B commercial species. *The percentage of the stocking requirements met with Group A species shall be no less than the percentage of the stand basal area they comprised before harvesting. The site occupancy provided by Group A species shall not be reduced relative to Group B species. When considering site occupancy, the Director shall consider the potential long term effects of relative site occupancy of Group A species versus Group B species as a result of harvest. If Group A species will likely recapture the site after harvest, Group B species do not need to be reduced. The time frames for recapturing the site shall be consistent with achieving MSP. The Director may prohibit the use of Group A and/or B commercial species which are non-indigenous or are not physiologically suited to the area involved. **Exceptions may be approved by the Director if the THP provides the following information and those exceptions are agreed to by the timberland owner:***

Explain and justify with clear and convincing evidence how using Group A nonindigenous, or Group B species to meet the resource conservation standards will meet the intent of the Forest Practice Act as described in PRC § 4513. The discussion shall include at least:

(A) *The management objectives of the post-harvest stand;*

(B) *A description of the current stand, including species composition and current stocking levels within the area of Group B species. The percentage can be measured by using point-count, basal area, stocked plot, or other method agreed to by the Director.*

(C) *The percentage of the post-harvest stocking to be met with Group B species. Post harvest percentages will be determined on the basis of stocked plots. Only the methods provided by 14 CCR §§ 1070-1075 shall be used in determining if the standards of PRC § 4561 have been met.*

(D) *A description of what will constitute a countable tree, as defined by PRC § 4528 for a Group B species and how such a tree will meet the management objectives of the post-harvest stand.*

The Director, after an initial inspection pursuant to PRC § 4604, shall approve use of Group B species, as exceptions to the pre-harvest basal area percentage standard, if in his judgment the intent of the Act will be met, and there will not be an immediate significant and long-term harm to the natural resources of the state.

PRC § 4513. *Intent of Legislature. It is the intent of the Legislature to create and maintain an effective and comprehensive system of regulation and use of all timberlands so as to assure that:*

*(a) Where feasible, the **productivity of timberlands** is restored, enhanced, and maintained.*

(b) The goal of maximum sustained production of high-quality timber products is achieved while giving consideration to values relating to sequestration of carbon dioxide, recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment.

PRC § 4526. *Timberland. "Timberland" means land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a **commercial species used to produce lumber and other forest products**, including Christmas trees. Commercial species shall be determined by the board on a district basis.*

PRC § 4514. *Limitations of powers and rights. This chapter or a ruling, requirement, or policy of the board is not a limitation on the following:*

(a) On the power of a city or county or city and county to declare, prohibit, and abate nuisances.

(b) On the power of the Attorney General, at the request of the board, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin pollution or nuisance.

(c) On the power of a state agency in the enforcement or administration of the law that it is specifically authorized or required to enforce or administer.

(d) On the right of a person to maintain at any time an appropriate action for relief against a private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.