



**Forest Landowners
OF CALIFORNIA**

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Dr. Keith Gilles, Chairman
Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA. 94244-2460

Dear Chairman Gilles:

This letter is to respond to a letter submitted to the Board by the California Department of Forestry and Fire Protection (CAL FIRE) regarding new proposed regulatory language for the Working Forest Management Plan (WFMP) to be discussed by the Management Committee on May 10, 2016. The letter is submitted as a joint comment letter by Forest Landowners of California, California Licensed Foresters (CLFA), and the Buckeye Conservancy.¹

CAL FIRE has proposed five amendments to the draft language dated April 6, 2015 as detailed in the attachment to their letter. It is important to remember that this regulatory package has been in process since November 2013 and needs to be approved soon in order to meet OAL deadlines.

Item1 -- Dealing with where the WFMP is to be filed

Current language in draft dated 5-12-16

1094.1 Working Forest Management Plan and Working Forest Harvest Notice Filing Locations

The Working Forest Management Plan (WFMP) or Working Forest Harvest Notice for proposed timber operations, pursuant to PRC § 4597.1 et seq., shall be submitted in writing to the Director at the appropriate CAL FIRE Review Team Office having jurisdiction for the timber operations, and shall contain the information specified in 14 CCR §§ 1094.6 or 1094.8

The Department is now proposing to revise this as shown below

The Working Forest Management Plan (WFMP) or Working Forest Harvest Notice for proposed timber operations, pursuant to PRC § 4597.1 et seq., shall be submitted in writing to the Director at the appropriate CAL FIRE Review

¹ Due to other commitments, time constraints, and the late receipt of the Cal Fire letter, a copy of the Buckeye logo and Mr. Able's signature were not available. His signature was authorized by verbal communication.

Team Office specified under 14 CCR § 1032, having jurisdiction for the timber operations, on a form prescribed by the Director, and shall contain at a minimum the information specified in 14 CCR §§ 1094.6 or 1094.8 as appropriate.

The current draft language mirrors the language applicable to NTMPs in 14 CCR §§ 1090.1. We believe the intent of the statute was to mirror the NTMP language as closely as possible which is done in the 5-12-16 draft. The current draft language has been unchanged in various drafts considered by the Management Committee dating back to at least January 21, 2016 with no proposed changes submitted by Cal Fire. Cal Fire has not identified any problems associated with NTMPs that necessitate the proposed “on a form prescribed by the Director” or the “minimum” language.

We urge the Committee and Board to reject this proposed change.

Item 2 -- Additional language regarding inventory data

Current language in draft dated 5-12-16

(g) A description by the RPF of the inventory design and standards which, at a minimum, shall include:
(1) The baseline conditions found on the WFMP and the future conditions and planning horizon associated with the estimate of LTSY.

The Department is now proposing to revise this as shown below

- 1) The baseline conditions found on the WFMP and the future conditions and planning horizon associated with the estimate of LTSY, including the following
 - (A) Strata acreage;
 - (B) Number of inventory plots measured to develop average strata statistics;
 - (C) Corresponding Site Class;
 - (D) Average conifer and hardwood Basal Area (BA) density (sq.ft/acre);
 - (E) Average conifer Scribner volume per acre and expanded for the strata;
 - (F) Average conifer and hardwood trees per acre;
 - (G) Average first period growth for the strata under a grow-only scenario in units of Scribner volume per acre;
 - (H) Quadratic Mean Diameter (QMD) based on all trees greater than 5 inches DBH;
 - (I) Corresponding Wildlife Habitat Type (WHR).

The current language has been in various drafts dating back to at least January 21, 2016. Note that this section of the proposed regulations was reviewed at least twice by the Management Committee.² These same items were requested in a letter from Cal Fire in a letter dated March 2, 2015³ and discussed at length by the Management Committee at its April 2015 committee meeting. The proposed changes were not accepted at that time nor were they included in the full Board's 45 day notice adopted in June 2015.

² MC reviewed on 012615, no changes recommended. For clarity, see 1094.2 for Stand definition and changes in 1094.6(i) and 1094.6(n). Comment [TB14 (Notes of Thembi Borrás -- Bd. staff.)]: Discussed in MGMT 040516 and removed “including”. Comment [TB15]

³ See item 14 on page 67 of the combined comment letters as part of the binder materials for the Management Committee.

The purpose behind the current language was to be able to allow existing inventories to be used as much as possible. Additional data may be needed to get these inventories within the required statistical standards, but landowners should not have to completely redo their existing inventories which may be required under the proposed changes.

We urge the Committee and Board to reject this proposed change and allow RPFs the professional judgement and flexibility that their license allows and not put them in a one size fit all box.

Item 3 – Additional WFMP requirements

Current language in draft dated 5-12-16

- (i) A description of the property and planned activities including:
 - (1) Acres.
 - (2) Projected growth.
 - (3) Existing stand types.
 - (4) Major Stand Types or Strata.
 - (5) Current projected growth by Strata.
 - (6) Silvicultural method(s) to be applied to Strata to achieve LTSY.
 - (7) Existing and projected timber volumes and tree sizes to be available for harvest.
 - (8) Projected frequencies of harvest.
 - (9) Silvicultural method(s) to be applied during the initial harvest(s), projected future harvest(s) and method(s) used in the projected growth and yield to achieve LTSY.

The Department is now proposing to revise this section adding three additional items as shown below

- (10) Identify the parameters associated with the analysis to balance age class distributions including:
 - (A) Residual basal area stocking levels, and
 - (B) The maximum diameter class identified for retention.
- (11) For the Major Stand Types provide Basal Area estimates of the baseline standing inventory and future estimates of pre and post-harvest Basal Area for the planning horizon.
- (12) For the assessment area, provide the average periodic Basal Area in standing inventory estimated to exist at the beginning of each planning period.

The current draft language has been in various drafts dating back to at least January 21, 2016. Note that this section of the proposed regulations was reviewed at least twice by the Management Committee and the additional items were not included.⁴

We urge the Committee and Board to reject this proposed change.

Item 4 -- Additional language added regarding substantial deviation in harvest volume 1094.23(c)(3)

⁴ Comment [TB17]: Discussed in MC on 012615 and added “existing and” Comment [TB18]: Discussed in MC on 012615 and moved pest problems to (n)(1). Comment [TB19]: Discussed in MGMT 040516, and determined no modifications were warranted.

Current language in draft dated 5-12-16

- (c) Changes are presumed to be substantial deviations if they could have a significant effect on the conduct of timber operations and potentially could have a significant adverse effect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment. Such actions may include, but are not limited to:
- (1) Change in location of timber harvesting operations within the WFMP area.
 - (2) Enlargement of the WFMP area.
 - (3) An increase in volume to be harvested exceeding ten (10) percent as projected by the LTSY.

The Department is now proposing to revise this as shown below

- ~~(3) An increase in volume to be harvested exceeding ten (10) percent as projected by the LTSY.~~ Change in the average harvesting projections in any ten-year period which exceeds ten (10) percent, including a deviation caused by changes of ownership and catastrophic events.

We believe the intent of the statute was to mirror the NTMP language as closely as possible which is done in the 5-12-16 draft. The current draft language has been unchanged in various drafts considered by the Management Committee dating back to at least January 21, 2016. It mirrors the language applicable to NTMPs in 14 CCR §§ 1090.14(b)(2) with greater specificity to mitigate some perceived problems with NTMPs although no specific **quantitative** data regarding abuse by NTMP holders has been provided.

The last line of section (c) seems to cover the issue with the “may include, **but are not limited to**” language. (emphasis added)

More stringent language such as what is proposed above creates a potential unintended penalty for conservatively (or inadvertently inaccurately) predicting growth, or inaccurately relating yield to cruise based on factors such as hidden defect or logging damage, or accurately determining harvest volumes from management units. Furthermore, this language as the Department is proposing could require a landowner to file an amendment if they decide not to harvest in a year that the plan proposes to originally harvest. The flexibility of the WFMP is critical to its success for landowners and managers. If that flexibility is stripped from this document, it becomes useless.

Finally, it is not clear that the language governing SYPs is applicable to the WFMP. Section 1091.1(b) regarding the intent of Sustained Yield regulation states in part

In the interpretation and implementation of this Article, it is recognized that the accuracy of, and therefore the need for, detailed future projections becomes less as the time horizon lengthens. It is not the intent of this Article that speculation shall be promoted such that analyses shall be undertaken which would produce only marginally reliable results or that unneeded data would be gathered. **Moreover, it is recognized that in certain cases, landowners, and particularly owners of smaller areas, may not have nor can be reasonably expected to obtain or project information which otherwise might be helpful. It is the intent of this Article that the requirements for informational or analytical support for a SYP shall be guided by the principles of practicality and reasonableness; no information or analysis shall be required which in the light of all applicable factors is not feasible.** (emphasis added)

While lands of potential WFMP owners may be large to city dwellers, the magnitude of an area of a planning watershed or less would often have a minimal impact at the landscape level and potentially place a burden on the plan submitter when the goal is to practice unevenaged management.

We urge the Committee and Board to reject this proposed change.

Item 5 -- 5 Year Review requirements

Current language in draft dated 5-12-16

1094.25 Report of Completion of Work Described in WFMP; Partial Completion Report

(a) Within one (1) month after completion of the work described in the Working Forest Harvest Notice, excluding work for stocking, site preparation, or maintenance of drainage facilities and soil stabilization treatments on skid trails, roads, and landings after the Plan period, a report shall be filed by the timber owner(s) or the Designated Agent with the Department that all work, except stocking, site preparation, or maintenance of drainage facilities and soil stabilization treatments, has been completed.

(b) If all of the work described in the Plan has not been completed, a report may be filed annually with respect to a portion of the area covered by the Plan which has been completed.

The portion completed shall be adequately identified on a map submitted with the report.

The Department is now proposing to revise this section by adding a new section (c) as shown below

(c) As part of the completion report, the Designated Agent shall include:

(1) The actual acres harvested.

(2) A map of the operating area.

(3) The volume harvested per Management Unit(s) in relation to projections of harvest in the WFMP.

The current draft language has been unchanged in various drafts considered by the Management Committee dating back to at least January 21, 2016. This issue has not been raised previously by the Department in the drafting of the proposed regulations since the process started in late 2013. The issues of actual acres and a map raised as points 1 and 2 seem to be covered by the language of existing sections (a) and (b). Department has provided no specific **quantitative** data as to why volume data is required and not included any provision for treating the volume data as a confidential document.

In conclusion, Forest Landowners, CLFA, and the Buckeye Conservancy believes that these issues have been addressed by the Management Committee and or are potentially burdensome and costly and will not encourage the goal of "Light Touch" forestry on a larger watershed or small landscape scale currently available through the NTMP process.

Respectfully submitted,

Lawrence D. Camp

Lawrence D. Camp
Legislative Committee Chair

Jim Able



Clayton Code
President - CLFA

/s Jim Able

Jim Able
President – Buckeye Conservancy