

Forest Practice Committee (FPC)

The mission of the FPC is to evaluate and promote an effective regulatory system to assure the continuous growing and harvesting of commercial forests and to protect soil, air, fish and wildland, and water resources.

January 25, 2017

COMPLETED OR SUBSTANTIALLY COMPLETED IN 2016:

The Forest Practice Committee and the Management Committee became a joint committee in May of 2016. This action was necessary due to unfilled Board staff positions. 2016 Priorities for each committee were addressed by the joint Forest Practice/Management committee. It is anticipated that the Management and Forest Practice Committees will resume as separate standing committees sometime during the mid to latter half of 2017 as Board staffing needs are achieved.

1. Permanent Rule Making for Drought Mortality Amendments (14CCR 1038(k))

Status: *Emergency Regulations were set to expire on April 12, 2016. The Forest Practice Committee developed a draft regulatory proposal that was forwarded to the Full Board for consideration and subsequently noticed for public comment. The Full Board adopted the draft regulatory proposal. The regulations will become effective on January 1, 2017.*

2. Oak Woodland Management

Status: *After abandoning a draft policy in regards to Oak Woodland Management (in 2014) in response to concerns brought forth by the Department, the committee developed a special silvicultural prescription (new rule) addressing oak woodland management. This regulatory proposal was made available to the public via a 45-Day notice and was eventually adopted by the Board. The rule became effective on January 1, 2017.*

3. Regulatory amendments for Cumulative Effects, including 14 CCR § 912.7 and Technical Rule Addendum #2.

Status: *The Forest Practice Committee was successful in working through significant portions of both 14 CCR § 912.7 and Technical Rule Addendum #2. The goal is to bring these regulations, as they pertain to cumulative impacts assessments, up to contemporary standards. This matter remains as a Forest Practice Committee Priority 1 to demonstrate the goal of finalizing these revisions and any necessary rulemaking. Additionally, the committee will continue tracking AB 1492 working groups involved in evaluating state-wide forest practices relative to ecological performance and cumulative impacts assessment.*

PRIORITY 1 FOR 2017:

1. **14 CCR § 1035.1, 1035.2, 1035.3, 1035.4. LTO's have reported that they have been cited by state regulatory agencies with responsibility and liability for violations, errors, or other wrongful actions taken to comply with a Timber Harvest Plan or other timber management document, where the LTO was following the direction of a Registered Professional Forester (RPF) in taking the action.**

Objective: This issue was introduced to the FPC in June of 2014. The issue was remanded to the Professional Foresters Examining Committee (PFEC) for further investigation, with the direction to the PFEC to report back to the FPC with potential findings or options for solutions to the issue. The FPC received a report back, along with recommendation from the PFEC in late 2015. The Board, at the recommendation of the FPC, did provide a letter to the Director in March of 2015 and continues to discuss the matter. The FPC expects to make a recommendation to the Full Board in early 2017 on what if any additional actions should be taken.

2. **Regulatory amendments for Cumulative Effects, including 14 CCR § 912.7 and Technical Rule Addendum #2.**

Objective/Status: Review of current status of the Forest Practice cumulative impacts assessment process including potential updates (revisions) to Technical Rule Addendum No. 2. Additionally, the FPC will be tracking and requesting updates from the Resources Agency on the progress of AB1492 Working Groups on the issue of Cumulative Effects. The following are targets of the AB 1492 Working Groups that the FPC will be tracking:

- Working Group Charters Completed (June 2015)
 - Working Group Draft Work Plans Completed (Updated Periodically)
 - Background paper on approaches to ecological performance measures completed (First Quarter 2017)
 - Public Scoping Workshop on Ecological Performance Measures (First Quarter 2017)
 - Public Workshop on First Draft of Ecological Performance Measures (Late 2017)
 - Public Workshop on Second Draft of Ecological Performance Measures and Proposed Implementation Plan and Adaptive Management Approach (Mid-2018)
 - Completed Ecological Performance Measures, Implementation Plan, and Adaptive Management Approach (Early 2018)
 - Complete planning Watershed Pilot Project (end of 2017 or (preferably) earlier)
3. **Assembly Bills 1958 and 2029 Oak Woodland Management and Forest Fire Prevention Pilot Project Exemptions (14 CCR 1038) and related required Reporting on Exemption and Emergency Notices.**

Objective /Status: AB 1958 was chaptered by the administration in 2016 amending PRC § 4584. These amendments authorize the Board to develop an exemption under 14 CCR § 1038 for California black and Oregon white oak woodland management. The Forest Practice Committee has begun work on developing a draft regulatory proposal for the Full Board to review and potential move through the rulemaking process during the first half of 2017. Additionally, AB 1958 requires the Board and CAL FIRE to work cooperatively on evaluating and report to the legislature by December 31, 2017 on the

use and effectiveness of the available exemptions and emergency notices that are currently available under Board rules and regulations.

Objective /Status: AB 2029 was chaptered by the administration in 2016 amending PRC § 4584. These amendments authorize the Board to revise an existing exemption under 14 CCR § 1038 for Forest Fire Prevention Pilot Projects. The Forest Practice Committee has begun work on developing a draft regulatory proposal for the Full Board to review and potential move through the rulemaking process during the first half of 2017. Additionally, AB 2029 requires the Board and CAL FIRE to work cooperatively on evaluating and report to the legislature by December 31, 2017 on the use and effectiveness of the available exemptions and emergency notices that are currently available under Board rules and regulations

4. **Review of Required Post Harvest Stocking Standards (14 CCR § 913; 14 CCR § 1071) pursuant Assembly Bills (AB) 2082 (2014) and 417 (2015) affecting Public Resource Code (PRC) § 4561**

Objective/Status: The request has been made to investigate the current stocking standards as they relate to various regeneration methods and forest health, including fuel hazard reduction, within certain forest types. Recent legislative mandates (AB 2082, 2014 and AB 417, 2015) were chaptered by the Administration which provides the Board the authority to review required minimum stocking standards pursuant to PRC § 4561. No progress to date.

5. **Watercourse and Lake Protection Rule Review (14 CCR § 916), including:**

- a. 14 CCR § 916.9(s) [936.9(s), 956.9(s)] [in part], No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under exemption notices except for... *Should be considered in the context of 14 CCR § 1104.1(a)(2)(F), which allows conversion activities in the WLPZ where specifically approved by local permit. Defer to the county in these situations? Restriction of timber operations in the WLPZ affects timber operations conducted in compliance with defensible space regulations. There appears to be a conflict between this subdivision and PRC § 4291 and 14 CCR § 1299.*
- b. Should mechanical feller-bunchers be classified as "heavy equipment" in WLPZs?
- c. Mapping of Class III Watercourse crossings. Language in 14 CCR §§ 1034(x)(7) and 916.4 [936.4,956.4] need to be considered and potentially reconciled for purposes of consistency.
- d. Review the necessity and utility of assessing and mapping standards of 14 CCR § 916.4 for spawning and rearing habitat for anadromous salmonids.

Objective/Status: No progress to date.

6. Review of Forest Practice Northern Spotted Owl (NSO) Rules

Objective/Status: FPC recommended publication of a 45 Day Notice of Rulemaking for the “Activity Center Definition” rule proposal in 2013. The Board subsequently authorized the publication of the 45-Day Notice, but postponed publication of the Notice in anticipation of the Fish and Game Commission’s pending adoption of findings in regards to a petition filed requesting state listing of NSO. The Commission accepted the petition and has determined that state listing for the NSO is warranted.

The FPC will continue review of the NSO rule consistency issues in 2017 once the Commission has adopted a findings and necessary regulations in regards to state listing.

PRIORITY 2 FOR 2017:

7. 14 CCR § 1054.8 – Order of the Board

Objective/Status: The Department has requested that the Board consider amending this rule section for purposes of obtaining consistency with PRC § 4582.7(d) and 14 CCR § 1037.6. Additionally, the Department has requested that the Board take into consideration the lack of consistency between PRC § 4582.7(d) and 14 CCR § 1037.6 with current CEQA Guidelines and case law as they pertain to re-circulation of a Plan with substantial new information. No progress to date.

8. Review the regulatory history, implementation, and future of 14 CCR § 916.11; Monitoring for Adaptive Management in Watersheds with Coho Salmon

Objective/Status: The rule requires the Board to develop a monitoring and adaptive management program for timber harvesting operations in watersheds with coho salmon. Multiple purposes for this program are stated within the Rule. The Board has since established a new science-based multi-stakeholder and multi-disciplinary Effectiveness Monitoring Committee (EMC) for the purpose of reviewing the efficiency and effectiveness of the Board’s Forest Practice Rules relative to forestry and environmental protection, including the protection of watershed resources critical to listed species such as coho salmon. The FPC will review the history and requirements of 14 CCR § 916.11 to ensure the mission and activities of the EMC adequately address the purposes stated for this Rule and if any additional specific Board action is necessary.

9. 14 CCR § 913.4(d) - Variable Retention silviculture

Objective/Status: Several questions have been raised regarding implementation of this Special Prescription: (1) should the Variable Retention regulation specify a minimum re-entry period for designated retention areas?; (2) Should the current regulation require a minimum stand age necessary for harvest to occur in order to demonstrate maximum sustained production (MSP) as is required for even-age silvicultures under 14 CCR § 913.11(c)?; and (3) is the minimum stocking requirements of CCR § 913.4 (d)(3)(H) relative to aggregate versus dispersed retention clear enough for consistent application and enforcement? No progress to date.

PRIORITY 3 FOR 2017:

10. 14 CCR § 913.2 (b) – Transition silviculture

Objective/Status: *It has been reported that the Department does not allow use of the Transition silviculture method in timber stands which were most previously harvested utilizing the Selection method. This 'policy' is not consistent with 14CCR § 913.2(b) or (b)(2). THP was returned on this issue without being evaluated through PHI to support the determination. No progress to date.*

11. 14 CCR § 1034, Contents of Plan

- a. *(r) How the requirements of 14 CCR § 1032.7(f) are to be met. The reference to 1032.7(f) is obsolete, since it refers to the past requirement that the RPF distribute and publish a copy of the NOI.*
- b. *(x)(7), [On a plan map, show the location of all watercourse crossings of classified watercourses except temporary crossings of Class III watercourses without flowing water during timber operations at that crossing. The Board should consider revising 1034 to make Class III watercourse crossing a required mapped feature within a Plan.*
- c. *Board should consider amending 14 CCR § 1034 when it adopts or amends any rule that adds elements considered a required portion of a harvesting plan. This ensures a central location where the RPF could be assured of finding what is considered essential information in a harvesting document. Board may want to consider a rule package that consolidates all required plan contents under 14 CCR §§ 1034, 1051, 1090.5, and 1092.09.*

Objective/Status: *No progress to date.*

12. 14 CCR § 1032.7(d) and 14 CCR § 1092.04(d) [in part], A Notice of Intent shall include the following information: (4) the acres proposed to be harvested. (5) The regeneration methods and intermediate treatments to be used.

- a. *(4) Board should amend this paragraph to include all acres where timber operations will occur, not just the area where timber will be harvested. In doing so, the Board should consider the current definition of logging area and the lack of a definition of plan area.*
- b. *(5) Requires stating the regeneration methods and intermediate treatments to be used. This paragraph may not capture all possible treatments that may occur, e.g., special prescriptions and other types of associated timber harvesting, such as road right-of-way or timberland conversion.*

- c. *Item was initially addressed by Management Committee in 2010 in form of rule proposal to amend NTMP NTO requirements. Item was remanded back to Management Committee following publication of 45-day Notice of Rulemaking in December 2010 and initial hearing in February 2011. No further action was subsequently taken.*

Objective/Status: *No progress to date.*

13. Regulatory amendments to 14 CCR § 1032.10 - Notice of Timber Operations.

- a. The THP submitter shall provide notice by letter to all other landowners within 1,000 feet downstream of the THP boundary whose ownership adjoins or includes a Class I, II, or IV watercourse(s) which receives surface drainage from the proposed timber operations. The notice shall
- b. Consider requiring the inclusion the number of acres proposed for harvest along with the required legal description on a submitted NOP. (BOE request)
- c. Consider requiring the mapped location of each ownership, if multiple ownerships are being harvested, under the same NOP. This applies to all Plans and exemptions as well. (BOE request)
- d. The Department has requested the following items be potentially addressed in regards to Notice of Timber Operations. No progress to date.
- i. *Overland flow or channel flow?*
 - ii. *Publication may need to be given in a newspaper of general circulation. CAL FIRE assumes this requires notification as defined in Government Code §§ 6000-6027.*
 - iii. *A tie should be made with the requirement to provide protection to domestic water supplies, as required per 14 CCR § 916.10 [936.10, 956.10].*
 - iv. *Require more current notification in which the post-marked date is no more than one year prior to submittal of the plan.*
 - v. *Does a plan have to be returned where the RPF requests an exemption from one of the noticing requirements and CAL FIRE does not accept the request. The rule requires at least ten days passing after notification before submission of the plan.*
 - vi. *The 4th sentence should be changed to use the proper verb, "affect," in place of "effect."*

Objective/Status: *No progress to date.*

Management Committee

The mission of the Management Committee is to evaluate and promote long-term, landscape level planning approaches to support natural resource management on California's non-federal forest and rangelands.

January 25, 2016

COMPLETED OR SUBSTANTIALLY COMPLETED IN 2016:

The Forest Practice Committee and the Management Committee became a joint committee in May of 2016. This action was necessary due to unfilled Board staff positions. 2016 Priorities for each committee were addressed by the joint Forest Practice/Management committee. It is anticipated that the Management and Forest Practice Committees will resume as separate standing committees sometime during the mid to latter half of 2017 as Board staffing needs are achieved.

1. Working Forest Management Plan (WFMP)

Status: *As direction of the Board, the Management Committee further reviewed and revised the draft regulatory proposal for the Working Forest Management Plan based upon receipt of public comment during an initial 45-Day public comment period. The WFMP draft regulatory proposal was substantially completed and provided to the Full Board for consideration. The Full Board authorized a second 45-Day public comment period. The Board is currently awaiting staff to prepare a draft Final Statement of Reasons for consideration. The Board anticipates that regulations will likely become effective for the WFMP on January 1, 2018.*

2. Timberland Conversion:

Status: *The Management Committee decided to approach the issue of timberland conversion in a modest manner, by addressing individual issues that the regulated public and Department have experienced. In 2015, the Management Committee heard the issue of the limitation experienced by a landowner, Ms. Rassmusen, from Plumas County. As a result, the Management Committee did develop and draft regulatory proposal that was forwarded to the Board and authorized for 45 Day notice in August of 2015. That notice was published in July of 2016. Subsequently, the Board adopted the regulatory proposal. The regulations will become effective on January 1, 2017. Additional issues pertaining to timberland conversion will likely be addressed by the Management Committee in 2017 and beyond.*

3. Regulatory Revisions for Electronic Plan Submission

Status: *The Administration has allotted significant funding for development of an digital THP, NTMP, MTHP and Exemption submission system. The overarching goal of this effort is to attain a new level of efficiency and transparency for Plan preparation,*

submission and review. The Natural Resources Agency and the Department requested that the Board consider revising current regulatory standards to allow for, or require, electronic Plan submission to support the development of the new technological platform that is currently being explored. The Management Committee reviewed the request and determined that no action, particularly as it applies to regulatory development, is required to allow development of the electronic submission process. Current Board rules do not limit or exclude the use of digital submission of Plans and therefore further action to support the state in developing the digital platform is not currently required.

4. Jackson Demonstration State Forest (JDSF):

Objective: Continue to review the management of Jackson Demonstration State Forest (JDSF) pursuant to Board Policy § 0351.10.

Status: The Board approved the Research Plan for JDSF in early 2015. In addition, the Management Committee reviewed the recent implementation of the Option “a” that was recently approved for JDSF as well as reviewed the updated Recreation Plan. The Management Committee accepted the request of JDSF staff to continue management under the current iteration of the Management Plan, but has forwarded the Research and Recreation Plans to be considered as appendix to the JDSF Management Plan for purposes of providing the public the most updated information in regards to those subject matters within 2016 iteration of the JDSF Management Plan. The Board has authorized staff to prepare an addendum to the Program EIR for the JDSF Management Plan to fully incorporate the Research and Recreation Plans into the JDSF Management Plan. This will be completed in early 2017.

PRIORITY 1 FOR 2017:

1. Program Timberland Environmental Impact Report (PTEIR) for Carbon Sequestration and Fuel Reduction Program

Objective: AB 862, chaptered by the Administration in 2014, directs the Board of Forestry and Fire Protection to develop regulations, guidelines or publications to facilitate a grant program that allots funding for the development of PTEIRs that promote carbon sequestration and fuel hazard reduction on state or private lands. The grant program is to be administered by CAL FIRE.

2. Small Landowner Options for Harvesting

Objective: Find effective methods to facilitate small landowner harvest. Such approaches include 1) An NTMP approach for landowners of 320 acres or less that cannot utilize a regular NTMP and 2) Woodlots owners of less than 40 acres seeking minimal harvesting.

Status: The Management Committee has intermittently discussed over the course of 2014 and 2015. Additional attention will be provided to this issue in 2017 if time permits.

3. Boggs Mountain Demonstration State Forest Management Plan

Objective:

Continue to review the management of Boggs Mountain Demonstration State Forest pursuant to Board Policy § 0351.10.

Status: *Management Plan and Initial Study is currently being worked upon by CAL FIRE staff and will be submitted to the Management Committee for review during 2017. The Board took action in December 2015 to allow for development of a new Draft Initial Study and New Draft Management Plan for the Boggs Mountain Demonstration State Forest for submittal to the Board by June 2017 for review. The Board also acknowledged the need to continue management of Boggs Mountain Demonstration State Forest under the current Management Plan. This action was commensurate with Board Policy § 0351.10 and in response to the significant change on the state forest as a result of the Valley Fire.*

4. Issues pertaining to conversion of Timberland

- **Regulatory amendments to 14 CCR § 1100(g)(2) - Definition of Timberland Conversion**
- **Regulatory amendments to 14 CCR § 895.1 – “Crop of Trees, Available for, and Capable of”**
- **Increased and widespread use of 14 CCR § 1104.1 – 3 acre or less conversions**

Objective (bullet point 1): *Existing Board regulations are currently inconsistent with PRC § 4621 as it applies to conversion of timberland. Current Board regulations address proposed conversions in Timber Production Zone (TPZ) where an immediate re-zone out of TPZ has been approved. State law does not recognize zoning as a controlling factor in the conversion of timberland. The Department has requested that the Board bring the current definition of conversion into conformance with State law to recognize all timberland conversions regardless of zoning status.*

Objective (bullet point 2): *The Department has made the request to address the definition of “crop of trees” to aid the Department in identification of timberland. The Management Committee has received briefings from Board staff and the Department on potential options to address this issue.*

Objective (bullet point 3): *CDFW, Environmental Protection Information Center, and Ebbetts Pass Forest Watch submitted comments that expressed concern over the widespread use of the 3 acre or less conversion, particularly as it relates to marijuana cultivation. CDFW contends that impacts ranging from fragmentation, acutely impaired stream habitat, and potential “take” of listed species are a result from over use of these existing Board regulations.*

PRIORITY 2 FOR 2017:

5. Research Plan (PRC § 4789.6)

Objective: *The Board, assisted by the director, shall biennially determine state needs for forest management research and recommend the conduct of needed projects to the Governor and the Legislature.*

Status: *During review of Demonstration State Forest Management Plans the Committee has requested improvements in the documentation and distribution of forest management, wildlife, fisheries, botanical and watershed research conducted on each forest or by the Department. The Committee intends to continue to work with each state forest and the Department to better document and catalog results of these research efforts and seek improvements in the distribution of research reports through either the Department or Board website(s).*

6. Maximum Sustained Production (MSP) 14 CCR § 913.11(a) [933.11(a), 953.11(a)].

Objective: *Review performance of existing MSP rule over previous 15 years. Based on results of review, the Board may consider forming a technical working group to consider changes to existing MSP rule to provide more concrete standards for the MSP demonstration per 14 CCR § 913.11(a) [933.11(a), 953.11(a)]. Consider implications for assuring AB 32 targets.*

Status: *Committee reviewed February of 2011 and found no further action necessary. The Department has resubmitted the issue in 2015, which may indicate that further investigation into this issue is necessary.*

7. Non-Industrial Timber Management Plan (NTMP) Review:

Objective: *Ongoing review of issues with the regulatory standards associated with the NTMP, including the Department Draft NTMP Growth and Yield Guidelines document posted on the Department website. This guidance document is currently in use by Department plan review personnel.*

PRIORITY 3 FOR 2017:

8. Site Index for major Young-Growth Forest Woodland Species in Northern California: Discussion of update to 14 CCR § 1060 Site Classification.

Objective/Status: *FPC completed initial review of topic in April-June of 2010 and deferred additional review until completion of the Road Rules. MGMT Committee will continue review of the issue when sufficient committee time is available.*

9. Development of pilot programs for SERM/ Option v projects

Objective/Status: Department has formed a Technical Advisory Committee (VTAC) to develop and provide advice on pilot programs to implement option (v) projects under the Anadromous Salmonid Protection Rules (ASP)).

10. Pacific Forest and Watershed Lands Stewardship Council

Objective: Board approved Department effort to acquire lands in the Stewardship Council planning units of "Pit River," "Battle Creek," "Cow Creek," "Burney Gardens," "Lake Spaulding," "Bear River," "North Fork Mokelumne River," and "Lyons Reservoir" that would be suitable for inclusion in the Department's Demonstration State Forest Program.. Board must approve management plans for these acquisitions when final.

Status: The Stewardship Council Board has recommended lands for CAL FIRE at the North Fork Mokelumne River, Pit River, Battle Creek, and Cow Creek planning units. The Stewardship Council Board is expected to make an additional recommendation for lands to CAL FIRE at Lake Spaulding in the second quarter of 2016, work on this transaction would begin in early 2017. This would complete the anticipated fee recommendations for CAL FIRE.

The North Fork Mokelumne River final Land Conservation and Conveyance Plan (conservation easement and agreements) was approved by the Stewardship Council Board in November 2014. The Department of General Services is currently reviewing the LCCP and associated documents. It is anticipated that final documents will be brought back to the committee for discussion in 2016.

Work on the draft conservation easement and documents for the Cow Creek project resumed in January 2016. The Battle Creek and Pit River draft conservation easement and agreements will be developed starting in the second quarter of 2016 and may be available for review in late 2016 or early 2017

Conservation easement holders for each of the properties have been recommended by the Stewardship Council Board and includes: Shasta Land Trust (Cow Creek, Pit River), Western Shasta RCD (Battle Creek), and Mother Lode Land Trust (North Fork Mokelumne River).

11. Progeny Sites

These sites are usually planted over a long period of time 3-10 year period to get various age classes and seed sources. Some of the land may sit fallow for a number of years and not meet a 5 year stocking requirement. Exempt up to 40 acres from meeting the required stocking standard if the property owner designates that area for a progeny plantation.