

**BOARD OF FORESTRY AND FIRE PROTECTION
PROFESSIONAL FORESTERS REGISTRATION**

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**MEMORANDUM**

Date: September 23, 2008
From: Eric Huff, Executive Officer – Foresters Registration
To: Ken Zimmerman, Chair – Range Management Advisory Committee
Subject: **Certified Rangeland Manager Program.**

As you know, there has been considerable discussion regarding the application of the regulations governing the Board's Certified Rangeland Manager (CRM) Program. I have reported on this subject to your Committee on several occasions and attempted to provide clarity in response to the questions posed by the RMAC membership. What follows is my further attempt to provide a more complete picture of how the Program came to be and for what purpose. The information supplied here is entirely excerpted from the Board's record of rulemaking files, correspondence, statutory history, and historical references like Ed Martin's, A Tale of Two Certificates: The California Forest Practice Program, 1976-1988.

The Professional Foresters Law, hereafter "PFL," (Public Resources Code §750, *et seq.*) as it exists today is the result of statutory modifications by two pieces of legislation that became effective in the early 1990's. Assembly Bill 1903 (Hauser) was sponsored by the Board and became effective January 1, 1992. AB 1903 appears to have been at least partially prompted by two important documents found in the Board's Official Rulemaking File for the CRM Regulation (Appendix Item 1). The first of these was produced by what was then identified as the Department of Forestry and Fire Protection's Forest and Rangeland Resources Assessment Program (FRRAP - now known as the Fire and Resource Assessment Program or "FRAP") and is entitled, "A Policy Statement to Address Growing Conflict Over Changing Uses on California's Forests and Rangelands 1990-1995, FRRAP, January 1990." Chapter 3, Pages 14 and 15 of this document contains a discussion entitled, "Clarification of Roles of Professionals" and notes among other things, that, "[The] rapid urbanization of wildlands is complicating the roles of various professionals and the need for professional accountability." The author(s) further observed that the PFL was set up to function much like General Building Contractors Law in that, "...one professional is ultimately responsible and coordinates input or work products from other important disciplines."

The FRRAP Report's brief discussion concludes with four "Action Items" as follows:

- **The Board through regulation should clarify undefined terms in the law, and list tasks requiring, or not requiring, a license. The Attorney General's opinion on a number of licensing questions, when received, should be incorporated. Regulations will be based on historical documents, consistent with the existing lead role of the professional forester and discussions with other natural resource professionals.**
- **Evaluate whether or specialty professional certificates are now warranted. Alternatives may be possible within Board authority to allow other resource professionals to take on responsibility and accountability for specific tasks.**

- **Evaluate suggested changes in the professional examination process and content.**
- **Evaluate the desirability of law changes to raise some fee limits to allow coverage of costs in ongoing and predicted disciplinary cases; cost recovery of disciplinary action for persons found guilty by the Board; inclusion of public members other than Board members in the composition of the PFEC; and the PFEC's role in the disciplinary process.**

The last three bulleted items clearly illustrate that consideration of changes to the PFL to allow for specialty certificates among other things was being contemplated prior to publication of the FRRAP document in 1990. The first bullet indicates that the Board was consulting with the Attorney General's Office in an attempt to better define the PFL's lawful application. Not surprisingly then, the second document framing the Board's consideration of possible changes to the PFL is Deputy Attorney General, Bill Cunningham's apparently anticipated memorandum to the Chairman of the Board of Forestry (Board), dated May 2, 1990 (note that this memo is included herein as part of the Rulemaking File, Appendix Item 1). In this memorandum, Mr. Cunningham provides an analysis of the term "wildlands" for the purpose of helping delimit, "...the geographic scope of a professional forester's role." Cunningham states in the memo that, "[i]n adopting the Professional Foresters Law, the Legislature seems to have adopted the broadest generic term for the resource or resources to be protected." He goes on to state that the term "wildlands" appears to be a "composite term" for grasslands, brushlands, and timberlands. Cunningham then suggests that the Board consider defining the term "wildlands" in regulation or otherwise ask the Legislature for additional guidance. He concludes that until such time as further clarity is achieved, the PFL will require a licensed professional where activities may impact the state's "wildlands." But, he is also careful to add a caveat in the final line to the effect that, "...specific consideration of which specific acts on which specific lands requires a professional forester should await a case-by-case discussion."

Less than two months after the release of Mr. Cunningham's memorandum, former licensing officer, the late Bob Willhite sent a memorandum to Bob Kerstiens who was then serving as the Board's representative to the PFEC (Appendix Item 4). In that memo, Mr. Willhite summarizes the suggestion of former PFEC Chair and Board Member, Bob Heald that the Board create two (2) new certified specialties through amendment of existing regulation. The two specialties initially proposed by Mr. Heald were the "Certified THP Specialist" and the "Certified Hardwood-Range Specialist." As envisioned then, certified specialties would only be granted to those who first passed the RPF examination. Because the prospective certified specialist would already be an RPF, testing for the specialties would then be focused entirely upon the subject matter of the specialty. Those seeking the additional "Certified THP Specialist" designation would be tested on their knowledge of the state's forest practice act and regulations. Prospective "Certified Hardwood-Range Specialists" would likewise be tested on their knowledge of the hardwood-range vegetation type and its management. Notably, Mr. Willhite's memo identifies a need to engage with the range-livestock community to expand upon the questions included in the examination for this proposed specialty.

The subsequent proposed rule language for creation of the aforementioned specialties was provided in a document entitled, "Discussion Draft for Regulations to Create a Certified Range Specialist, December 6, 1990" (Appendix Item 5). As previously indicated, this initial regulatory proposal specified that a person could only be certified in a specialty once they had passed the RPF exam. Perhaps more importantly, the draft language also identified the specific vegetation types applicable to the hardwood-range specialty as well as those not applicable.

The applicable vegetation types included pinyon-juniper and juniper, all hardwood cover types (including eucalyptus), shrub cover types such as chaparral, and herbaceous cover types such as

annual and perennial grasslands so long as the shrub and/or herbaceous cover is associated with trees and other woody plants. The not-applicable vegetation types included “fresh emergent wetland,” Joshua tree, desert scrub, pasture, “food producing cropland or orchard-vineyard,” and of course urban landscapes. The “Discussion Draft” also provided new definitions of “timber,” “wildland,” and “urban development” that would have greatly clarified the application of the original PFL and the subsequent specialty proposals.

It would appear that both Willhite and Heald were of the initial belief that these proposed specialties could be created through existing regulation. Somewhere along the line, the Board must have been advised that further statutory authorization would be required because it sponsored AB 1903 and its authorization for the Board’s creation of specialty certifications in “one or more fields of forestry” (Public Resources Code §772). The bill set forth that the Board could create certified specialty programs of its own devising or more simply adopt another public agency’s or professional society’s independent certification program. The latter approach is of course how the state’s CRM program came into existence.

In March of 1992, two months after AB 1903 took effect, the California-Pacific Section of the Society for Range Management (Cal-Pac SRM) notified the Board of its intention to pursue specialty certification for range managers. The Board was provided with a draft set of requirements and remanded review of the proposal to the Professional Foresters Examining Committee (PFEC). The PFEC publicly evaluated the proposal at meetings in July, August and September of 1992. Upon completion of the PFEC’s review and drafting of proposed enacting regulations, the Board scheduled its first hearing on the proposed regulations for June 9, 1993. Subsequent hearings occurred at the Board’s August and September meetings with eventual adoption of the first and only certified specialty on January 5, 1994. The proposal was ultimately supported by the Society for Range Management, California Licensed Foresters Association, California Cattlemen’s Association, and most importantly, the Range Management Advisory Committee. Both the California Farm Bureau Federation and Society of American Foresters declined to offer a position at the final hearing. In the final vote, only Member Tharon O’Dell chose to voice his opposition.

Meanwhile, in March of 1993, apparently concurrent with the PFEC’s drafting and review of the proposed CRM Program regulations, a coalition of at least 50 individuals and organizations led by the Planning and Conservation League took issue with the Board’s new found authority to create certified specialties as well as the continued application of the PFL to “wildlands.” Senate Bill 1094 (Killea) (Appendix Item 2) was the result of this organized opposition and it proposed restriction of the Board’s authority to certify other specialties in the fields of botany, biology, hydrology, geology, and ecological/stream restoration. Perhaps more importantly, SB 1094 sought to eliminate reference to “wildlands” in favor of the more confining definition of “forested landscapes.”¹ Simultaneous to their legislative effort, members of the coalition and other supporters from the California Association of Professional Scientists, the American Fisheries Society, and the California Chapter of the Society for Ecological Restoration among others expressed consistent opposition to the CRM specialty certificate proposal throughout the lengthy public review process.

Despite opposition to SB 1094 expressed by the Board, the California Forestry Association, the California Licensed Foresters Association, the Northern California Society of American Foresters, the Association of Consulting Foresters and others, the bill was signed into law in October of 1993 and became effective January 1, 1994, just four days prior to the Board’s adoption of the CRM specialty. It must have been clear to the Board that passage of SB 1094 was imminent, as the definition of “forested landscapes” was incorporated in the CRM regulatory proposal prior to the Board’s final consideration of it at the January 5, 1994 meeting.

Perhaps the greatest negative consequence of SB 1094’s passage to the proposed CRM specialty was the immediate restriction of the law’s geographic area of application as a result of the change

¹ AB 1127 (Campbell, 1991 Legislative Session) was an earlier unsuccessful attempt to adjust the geographic application of the PFL by simply eliminating reference to “wildlands.”

from “wildlands” to “forested landscapes.” While it is no stretch to consider range and rangelands as a key part of the state’s “wildlands,” it is not so easy to connect range and rangelands to “forested landscapes.” Indeed, the August 1993 Board Meeting Minutes reveal that even prior to adoption of the CRM specialty, RMAC had expressed concern about the effect of the “forested landscapes” definition upon the proposed CRM regulation. Here again a common awareness of the pending passage of SB 1094 is apparent. It was RMAC’s concern that led to postponement of the final adoption hearing from August and September 1993 to January 1994. And, it seems highly probable that this severe limit on the program’s boundary and overall utility is the primary reason why the total number of CRMs remains so few today. Regardless, it is clear that the proponents of the specialty were aware of the limitation imposed by the “forested landscapes” definition when they voiced their support for the Board’s adoption of the program.

My original hypothesis about the adoption of the CRM specialty was that commercial timber interests had assisted in moving it forward with the idea that it would provide some level of benefit to the discussion of hardwood regulation. In the 1980’s, the Board focused quite a bit of attention to the issues surrounding hardwood conversion, stocking levels, and management. According to Ed Martin’s aforementioned publication, a “Hardwood Study Committee” was appointed by the Board in October of 1982 and produced a report in December of that same year. Shortly thereafter, the Board appointed a “Hardwood Task Force” to continue the work of the Study Committee and it completed a preliminary report in December 1983. Between December 1983 and February 1987, the Board continued to deliberate over possible hardwood regulation, holding the first ever California “Hardwood Symposium” in November 1986. The end result of this lengthy effort was the Board’s adoption of a resolution calling for increased educational efforts by agencies and other interested parties, and rejecting specific regulation of hardwoods. Of course, as RMAC is well aware, the question of hardwood regulation did not stop there and has continued to be publicly debated ever since.

It is clear that former PFEC Chair and Board Member Bob Heald originally intended the hardwood-range specialty to be focused upon management and treatment of hardwood vegetation types in particular. This suggests that there was a link between the hardwood regulation issue and the certified specialty concept. However, the extent to which this objective was carried forward in the ultimate adoption of the CRM specialty is not clear. Particularly since the educational requirements for CRM qualification are exclusively focused upon range and rangelands, and the requirement for licensure as an RPF prior to certification in a specialty was not adopted.

There may well have been an early link between the issue of hardwood regulation and the CRM Program. However, conversations with former Board staffers and CLFA representatives did not conclusively corroborate this observation. Further, the Board’s final adoption of the CRM specialty did not include specific reference to CRMs as hardwood tree specialists. The fact that a CRM is not also required to be an RPF also seems to indicate that CRMs were not intended to be the “hardwood-range specialists” originally envisioned by Mr. Heald. The CLFA representative who spoke in support of the CRM regulation indicated that the organization felt it should support the PFL’s allowance for specialties, and all those who would choose to be equally bound by the PFL.

Upon review of the program’s history, it appears that the primary issue affecting the CRM Program has remained the same since its adoption. Certified Rangeland Managers are bound by the “forested landscapes” definition same as Registered Professional Foresters. Just as a foresters license is required for the practice of forestry on non-federal, private and state forested landscapes, so too is a rangeland manager specialty certificate required for the practice of range and rangeland management on that same defined landscape. Deputy Attorney General, Shana Bagley’s recent analysis, dated August 4, 2008 (Appendix Item 3) affirms this fact.

What is also clear from Ms. Bagley’s analysis is that the geographic area in which there exists a legal requirement for practice by a CRM cannot be expanded from the ‘forested landscape.’ Though the Board encourages the work of CRMs on other non-forested landscapes, the Board can only enforce the requirement for CRM involvement on a forested landscape.

The role of CRMs in the “forested landscape” is not particularly easy to grasp when you consider that the regulation itself refers to CRMs as providing services in the “...art and science of managing rangelands and range.” (14 CCR §1651(a)). Further, as Ms. Bagley notes on page 4 of her analysis, there are existing definitions of “rangeland” found in the California Code of Regulations and the Public Resources Code, respectively. If CRMs are supposed to practice the art and science of range and rangeland management, how can they be bound by the “forested landscape” definition? The answer is that the Professional Foresters Law is what authorized the creation of this certified specialty. The CRM concept arose at a period of time in which the PFL applied to a much broader geographic area: the “wildlands.” It seems clear that the original intent was that the specialty be applicable to rangeland vegetation types regardless of the existence of tree canopy. However, SB 1094 came along and changed the application of the PFL to prevent the Board’s expression of authority over the broader “wildlands.” The CRM Program undoubtedly suffered the most as a result, though the foresters licensing program has also endured the effects.

The current draft “Board Policy Number 12: Guidance on the Certified Rangeland Manager Program” as it has been most recently revised by representatives of Cal-Pac SRM appears to stay within the bounds of the Board’s authority. I encourage the members of RMAC to continue working with Cal-Pac SRM representatives in the review and possible revision of this document with the goal of presenting it to the Board before the arrival of the New Year. I have likewise encouraged Cal-Pac SRM representatives to consider revising the program’s qualification guidelines to allow for exam qualification of practitioners without the currently required undergraduate education. Both of these important steps seem worthwhile from the perspective of encouraging more folks to consider taking on the responsibility of the Board’s specialty certification. I look forward to continuing my work with RMAC and Cal-Pac SRM on this subject and appreciate the opportunity to provide this limited historical background for our collective benefit.

**A Policy Statement
To Address
Growing Conflict Over Changing Uses
On California's Forests and Rangelands
1990-1995**

A Report By:

**Forest and Rangeland Resources Assessment Program (FRRAP)
California Department of Forestry and Fire Protection**

January 1990

STATE OF CALIFORNIA

**George Deukmejian, Governor
Gordon K. Van Vleck, Secretary for Resources
Robert E. Paulus, Acting Director, Department of Forestry and Fire Protection**

000205

3. CLARIFICATION OF ROLES OF PROFESSIONALS

Goal: Emphasize the existing lead responsibilities of, and clarify the role of, Registered Professional Foresters (RPFs), and the interaction with other professionals in the management of California's wildland resources.

Scope of Issue: The Professional Foresters Law enacted in 1972 establishes RPFs as the persons who provide consultation, investigation, evaluation, planning, and responsible supervision of forestry. Forestry in the code addresses a broad natural resource responsibility for these tasks on wildlands. The law states that these tasks relate to "the science which treats wildland resources in general, and of lands bearing associations of trees and woody plants in particular; investigation of wildland soils, plants, animals, and the ecology thereof; and the application of scientific knowledge in the fields of wildland protection, timber growing and utilization, forest resource inventories, watershed management, forest economics and finance, air and water pollution control on wildlands, outdoor recreation, and the preservation of natural scenery."

The rapid urbanization of wildlands is complicating the roles of various professionals and the need for professional accountability. Clarification is required regarding non-licensed experts; the relationship between RPFs and other licensed professionals such as geologists, landscape architects, engineers, and land surveyors; and forestry activities on, or adjacent to, federal lands involving contractors or employees. The State Legislative Archives shows the RPF law was set up similarly to the General Building Contractors law where one professional is ultimately responsible and coordinates input or work products from other important disciplines.

The Professional Foresters Examining Committee (PFEC) formed ad hoc RPF committees over two years ago to evaluate these issues. Their input was compiled and was reviewed by hardwood range interest groups, and later a broader multi-disciplinary committee. Final reports are pending.

Policy Direction: The Executive Officer for Foresters Licensing is continuing to communicate with individuals, professional societies, and other agencies to attempt to resolve differences over the appropriate role of RPFs, consistent with Board authority and resource professionals' accountability. Matters will be evaluated by the PFEC for recommendations to the Board.



Action Items:

- The Board through regulation should clarify undefined terms in the law, and list tasks requiring, or not requiring, a license. The Attorney General's opinion on a number of licensing questions, when received, should be incorporated. Regulations will be based on historical documents, consistent with the existing lead role of the professional forester and discussions with other natural resource professionals.

- Evaluate whether specialty professional certificates are now warranted. Alternatives may be possible within Board authority to allow other resource professionals to take on responsibility and accountability for specific tasks.

- Evaluate suggested changes in the professional examination process and content.

- Evaluate the desirability of law changes to raise some fee limits to allow coverage of costs in ongoing and predicted disciplinary cases; cost recovery of disciplinary action for persons found guilty by the Board; inclusion of public members other than Board members in the composition of the PFEC; and the PFEC's role in the disciplinary process.

B. Continued Support

1. INTEGRATED STATEWIDE FIRE AND EMERGENCY SERVICES

Goal: Continue to encourage the integration of fire and emergency service operations statewide, both at the local and state level, with responsibilities and roles keyed to the effective provision of multiple services.

Scope of Issue: Urbanization of the state's wildland is a significant and growing problem for fire protection organizations. Expanded use of wildlands has increased the risk of fires. It also has meant that firefighters need to be more concerned with protection of life and property. Increasingly, the California Department of Forestry and Fire Protection is called on to provide services not directly related to wildland fire protection. They include, but are not limited to, structural protection,

Received By

State of California

MAY 03 1990

Department of Justice

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Sacramento, CA 94244-2550

Memorandum

STATE BOARD OF FORESTRY

To : The Chairman of the California
Board of Forestry
1416 Ninth Street
Sacramento, Ca. 95814
Attention: Dean Cromwell,
Executive Secretary

Date : May 2, 1990

File No.

Telephone: ATSS (8) 454-4913
(916) 324-4913

From : William D. Cunningham, Deputy Attorney General
Office of the Attorney General - Sacramento

Subject: The Practice of Professional Forestry/Wildlands

Over the last year you have asked our office a variety of questions regarding the practice of professional forestry and the application of the Professional Foresters Law (Public Resources Code, §§ 750, et seq.) Specifically, you have asked for some informal help in defining the term "wildlands" as used in the Professional Foresters Law.

Sections 751 and 753 of the Professional Foresters Law repeatedly use the term "wildlands" in discussing the area of legislative concern and the resource to be treated by the science of "forestry". Understanding what the Legislature meant by using the word "wildlands" will help in delimiting the geographic scope of a professional forester's role.

ANALYSIS

As you are aware, the purpose of the Professional Foresters Law is to declare the existence of a public interest in the management and treatment of forest resources and timberlands of this state and to provide for the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of the wildlands and the quality of the wildland environment, and, through such regulation, to enhance the control of air and water pollution, the preservation of scenic beauty, the protection of watersheds for flood and soil erosion control, and the production and increased yield of natural resources including timber, forage, wildlife, water and outdoor recreation, to meet the needs of the people. The professional forester, the person who practices "the profession of forestry" in this discussion, is a person who, by reason of his knowledge of the natural sciences, mathematics and the principles of forestry acquired by forestry education and experience, performs services including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forestry activities, when such professional services require the application of forestry principles and techniques." (Pub. Resources Code, § 752.)

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And forestry as used in this discussion refers to the science

"which treats of wildland resources in general, and of lands bearing associations of trees and other woody plants in particular; investigation of wildland soils, plants, and animals, and the ecology thereof; and the application of scientific knowledge in the fields of wildlands protection, timber growing and utilization, forest resource inventories, watershed management, forest economics and finance, air and water pollution control on wildlands, outdoor recreation, and the preservation of natural scenery." (Pub. Resources Code, § 753; emphasis added.)

In providing the Board with these definitions, the Legislature did not subsequently provide the Board with a definition of "wildlands". Webster's Third New International Dictionary provides an initial definition of "wildland" as "land that is uncultivated or unfit for cultivation." (1961, p. 2616.) The plain meaning of the word "wildlands" then suggests a broad variety of lands and land types in California.

An examination of Sections 751 and 753 of the Public Resources Code provides additional guidance to the Board about what the Legislature intended the word "wildlands" to mean. It's clearly more than just "forests". As Section 753 notes, "forestry" refers to the science "which treats of wildland resources in general, and of lands bearing associations of trees and other woody plants in particular...." Timberlands and brushlands clearly appear to be subcategories of "wildlands". The "wildland environment" includes whole "watersheds" and such natural resources as "timber, forage, wildlife, water and outdoor recreation...." (Pub. Resources Code, § 751.) In adopting the Professional Foresters Law, the Legislature seems to have adopted the broadest generic term for the resource or resources to be protected.

A brief review of the Public Resources Code shows the State's (and the Board's) interest in protecting range and brushlands (§§ 713, 714, 741), forage (§§ 751 and 4513), forests (§§ 713, 714, 740, 751 and 4512, et seq.) and timber or timberlands (§§ 751 and 4512, et seq.). "Wildlands" appears to be a composite term for all these lands -- grasslands, brushlands and timberlands.

The Board may wish to clarify the word "wildlands" by defining it in regulation (Pub. Resources Code, § 759) or by asking the Legislature for additional guidance. Until that time, however, the mandate of the Professional Foresters Law requires the

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participation of a trained professional (the professional forester) when his activities will "have an impact upon the ecology of the wildlands and the quality of the wildland environment." (Pub. Resources Code, § 751.) Any more specific consideration of which specific acts on which specific lands require a professional forester should await a case-by-case discussion.

JOHN K. VAN DE KAMP
Attorney General



WILLIAM D. CUNNINGHAM
Deputy Attorney General

WDC:jw

cc: Douglas Noble, Acting Assistant Attorney General

000210

BILL ANALYSIS

SB 1094

Date of Hearing: July 12, 1993
 Fiscal: Yes
 Urgency: No

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
 Assemblyman Byron D. Sher, Chair

SB 1094 (Killea) - As Amended: July 8, 1993

Senate Natural Resources & Wildlife	(9-2)	(5/11/93)
Senate Appropriations	(Rule 28.8)	(6/3/93)
Senate Floor	(24-12)	(6/9/93)

SUBJECT: FORESTER LICENSING:

SHOULD THE LICENSING AND SPECIALTY CERTIFICATE REQUIREMENTS FOR REGISTERED PROFESSIONAL FORESTERS (RPF'S) BE LIMITED TO THE PRACTICE OF MANAGING "FORESTED LANDSCAPES" AND EXCLUDE WILDLIFE BIOLOGISTS, FISHERIES BIOLOGISTS, BOTANISTS, ECOLOGICAL RESTORATIONISTS, STREAM RESTORATIONISTS, HYDROLOGISTS AND GEOLOGISTS?

DIGEST

Existing law, under the Professional Foresters Law of 1976, as amended:

- 1) Provides for licensing of professional foresters by the State Board of Forestry (BOF) and for the establishment of an examining committee to establish the qualifications and testing requirements for applicants seeking such licenses.
- 2) Permits persons to be registered as a certified specialist by the BOF in one or more fields of forestry instead of being registered as a professional forester. For such certificates, the BOF is required to develop occupational specialties and establish a scope of practice.

This bill revises the Professional Foresters Law to do all of the following:

- 1) Modify the definition of "Professional Forester" to provide that licensing shall authorize the performance of forestry services only in those subjects where the applicant is competent by training or experience. When the level of expertise would be surpassed in accomplishing a site-specific forestry project, the licensed forester may need to utilize the services of other qualified natural resource professionals, as specified. Nothing in the bill shall preclude such other natural resource professionals from applying scientific knowledge in their field of expertise outside the practice of forestry.
- 2) Change the definition of "Forestry" to mean the science and practice of managing forested landscapes and the treatment of the forest cover in general, and the application of scientific knowledge and forestry

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society so chooses. AB 1185 has passed the Assembly and is currently pending in the State Senate.

- 3) Potential Chaptering Problem. As currently amended, both SB 1094 (Killea) and AB 1185 (Cortese) would revise identical provisions of the Professional Foresters Law (as embodied in Section 751, 752, 753, 754, 773 and 782 of the Public Resources Code) and are in conflict. In the event both bills are approved by the Legislature and signed into law, which ever measure is signed last would chapter out the other. The author may wish to work out conforming language with the author of AB 1185 to avoid this problem.

SOURCE: Planning and Conservation League

SUPPORT: American Fisheries Society
 Bosso, Williams, Levin, Sachs & Book Law Offices (Santa Cruz)
 California Association of Professional Scientists
 California Botanical Society
 California Native Plant Society
 California State University, Northridge, Department of Geography
 California Waterfowl Association
 California-Nevada Chapter of the American Fisheries Society
 Chambers Group, Inc.
 Clilburn Corporation
 East Bay Regional Park District
 Ecological Planning Services
 Envicom Corporation
 Genrec/Genetic Resource Consultants
 Greening Associates
 H.T. Harvey & Associates
 Institute for Sustainable Forestry
 John Northmore Roberts & Associates
 Lilburn Corporation
 MEC Analytical Systems, Inc.
 Marin Municipal Water District
 Martha Blane & Associates
 Mendocino Real Wood Co-op
 Michael Brandman Associates
 Mountain Lion Foundation
 Nature Conservancy
 Ogden Environmental & Energy Services
 Philip Williams & Associates, Ltd.
 Planning & Conservation League
 Planning Systems
 Prunuske Chatham, Inc.
 Public Employees for Environmental Responsibility
 Ranlett Wetland Resource Group
 Redwood Community Action Agency
 Salmonid Restoration Federation
 Science Applications International Corporation
 Sierra Club California
 Society for Ecological Restoration, California Chapter
 Sotoyome-Santa Rosa Resource Conservation District

BILL ANALYSIS

SB 1094

Killea (I)

5/17/93

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SUBJECT: Forestry: professional foresters

SOURCE: Author

DIGEST: This bill sets forth the tasks performed by a certified forester, and defines "forest landscape."

ANALYSIS: The Professional Foresters Law sets out the requirements to become certified as a professional forester, certified specialist, or qualified but exempt certificant. The purpose of the law is to provide for "the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of wildlands and quality of wildland environment" and "to enhance the control of air and water pollution, the preservation of scenic beauty, the protection of watersheds for flood and soil erosion control and production and increased yield of natural resources including timber, forage, wildlife, water and outdoor recreation, to meet the needs of the people."

A professional forester performs services including, but not limited to consultation, investigation, evaluation, planning or responsible supervision of forestry activities requiring forestry principles and techniques. Instead of being registered as a professional forester, an applicant may request to be registered as a certified specialist in one or more fields of forestry. A qualified but exempt certificant is a person certified through an independent certification program approved by the federal government.

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Envicom Corporation
Environmental Collaborative
GENREC Genetic Resource Consultants

Greening Associates
H. T. Harvey & Associates, Ecological Consultants
John Rieger and Associates
Leonard Charles & Associates, Environmental Analysis & Planning
Lilburn Corporation
Lisa Bush & Associates
Marine Municipal Water District
Martha Blane and Associates, Habitat Restoration Consulting
Mattole Restoration Council
Mountain Lion Foundation
Occidental College, Los Angeles, Biology Department
Occupational Therapy Service
Ogden Environmental and Energy Services
Philip Williams & Associates, Ltd.
Phoenix Operating Company, Inc.
Planning and Conservation League
Prunuske Chatam, Inc.
Public Employees for Environmental Responsibility
Ranlett Wetland Resources Group
Salmonid Restoration Federation
Shelter Cove Commercial Fishermens' Association
Sierra Club
Society for Ecological Restoration
Stivers & Associates, Environmental Planners
Sycamore Associates
Sycamore Environmental Consultants
The Nature Conservancy
University of California, Berkeley, Dept. Geology and Geophysics
University of California, Los Angeles, Environmental Science & Engineering
§Program, School of Public Health
Verna Jigour Ecological Planning Services
Wetlands Research Associates, Incorporated
Wildlife Society, Western Section

OPPOSITION: (Verified 6/1/93)

California Forestry Association
California Licensed Foresters Association
California State Board of Forestry

ARGUMENTS IN SUPPORT: The proponents contend that the Board of
§Forestry is engaging in regulatory expansion by broadly interpreting
§existing provisions of law to require certification as a professional
§forester to carry out many activities performed by "natural resource
§professionals" such as the practice of botany, wetland ecology, wildlife
§biology, fisheries biology, etc.

Proponents believe that Board of Forestry licensing of all natural resource
§professionals will increase the cost of the environmental work and reduce
§

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the number of people in the field, without a concomitant improvement in the quality of work performed.

Proponents believe that enactment of SB 1094 will avoid unnecessary regulation of natural resource professionals, without harming the environment.

ARGUMENTS IN OPPOSITION: The opponents state that this measure could severely reduce the scope of practices for which the state today requires licensure as a forester, limiting those requirements to forestland practices. It would also effectively remove professional forester licensure requirements from individuals performing other, equally important forestry practices, which involve wildlife management.

CP:ct1 6/3/93 Senate Floor Analyses

CONTINUED

I want to search again.

Documents associated with SB 1094 in the Session

Status - 505 bytes

History - 1980 bytes

Bill Text

Chaptered - 10/04/93 ASCII - 10320 bytes

Enrolled - 09/01/93 ASCII - 10216 bytes

Amended - 07/08/93 ASCII - 14149 bytes

Amended - 05/17/93 ASCII - 3163 bytes

Amended - 04/14/93 ASCII - 2737 bytes

Introduced - 03/05/93 ASCII - 1564 bytes

Analyses

Assembly Committee - 08/27/93 - 10275 bytes

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M e m o r a n d u m

To : Eric K. Huff, RPF
Executive Officer - Foresters Licensing Program
Board of Forestry and Fire Protection
Sacramento

Date : August 4, 2008

Telephone: (510) 622-2129
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E-Mail: Shana.Bagley@doj.ca.gov

From : Shana A. Bagley
Deputy Attorney General
Licensing Section
Office of the Attorney General - Oakland

Subject : CERTIFIED RANGELAND MANAGEMENT LICENSING ISSUES

Please note that the following statements do not necessarily reflect the opinions or conclusions of the Attorney General himself or of the Office as a whole. They are part of a legal analysis conducted at the request of the Board of Forestry to assist with the implementation of the Certified Rangeland Management certification process. Any questions in regard to the content of this memorandum should be directed to the author.

ISSUE I: RECOGNIZING THAT LANDOWNERS ARE SPECIFICALLY EXEMPTED FROM THE PROFESSIONAL FORESTERS LAW WHEN PRACTICING ON THEIR OWN LANDS, IS A PERSON REQUIRED BY STATUTE AND REGULATION TO BE A CRM IN ORDER TO PRACTICE RANGE AND RANGELAND MANAGEMENT ON NON-FEDERAL, STATE, AND PRIVATE LANDS?

ANSWER: YES, WHEN THE RANGELAND MANAGEMENT INVOLVES ACTIVITIES UNDERTAKEN ON FORESTED LANDSCAPES.

ANALYSIS:

A. Landowners Are Specifically Exempted From the Professional Foresters Law When Practicing Rangeland Management on Their Own Lands

Public Resources Code section 757 provides that: "The provisions of this article do not apply to any landowner who is a natural person and who personally performs services of a professional forester, when such services are personally performed on lands owned by him."

B. Both Statutes and Regulations Have Established a CRM Certification

Public Resources Code sections 762 and 772 and California Code of Regulations, title 14, sections 1650 and 1651 provide for Board to issue certificates of specialization in one or more fields of forestry, including a Certified Rangeland Manager (CRM).

A CRM certification can be obtained instead of a license as a Registered Professional Forester. (Public Resources Code section 772.)

California Code of Regulations, title 14, section 1651(a) provides that a CRM is someone that provides professional forester services at the request of the landowner or hiring agent, relating to the application of scientific principles to the art and science of managing rangelands and range.

Professional forester services are defined by California Code of Regulations, title 14, section 1602(a). Specifically, a professional forester "performs services on forested landscapes applicable to "forestry". California Code of Regulations, title 14, section 753 limits the practice of forestry to only those activities undertaken on forested landscapes.

Forested landscapes are defined by California Code of Regulations, title 14, section 754 as:

. . . tree dominated landscapes and their associated vegetation types on which there is growing a significant stand of tree species, or which are naturally capable of growing a significant stand of native trees in perpetuity, and is not otherwise devoted to nonforestry commercial, urban, or farming uses.

At this time, there is no case law that further defines the term.

"Forestry" is further defined by section 753 as:

. . . the science and practice of managing forested landscapes and the treatment of the forest cover in general, and includes, among other things, the application of scientific knowledge and forestry principles in the fields of fuels management and forest protection, timber growing and utilization, forest inventories, forest economics, forest valuation and finance, and the evaluation and mitigation of impacts from forestry activities on watershed and scenic values, to achieve the purposes of this article. . . . However, public and private foresters are required to be licensed pursuant to this article when making evaluations and determinations of the appropriate overall combination of mitigations of impacts from forestry activities necessary to protect all forest resources.

Section 753 specifically excludes from the practice of forestry, as it related to a CRM, the act of mitigating or recommending mitigation of impacts from previous forestry activities on related watershed or ecological values within their area of professional expertise or when recommending those mitigations for proposed timber operations.

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C. A Person is Required to be a CRM in Order to Practice Rangeland Management

1. "Person"

The certification is limited to persons, as opposed to corporate or business entities. California Code of Regulations, title 14, section 1651(a) states that a CRM is a person. Public Resources Code section 755 states that "Person . . . means any natural person." California Code of Regulations, title 14, section 1604 further provides that: Registration shall be determined on the basis of individual personal qualifications. No firm, company, partnership, or corporation will be issued a professional foresters license or specialty certificate.

As the certification is being provided in place of an RPF registration, the same limitation would apply to the CRM certification.

2. Requirement of a Registered Professional Forester License

Pursuant to Public Resources Code sections 753,766, and 4581, a forester is required to be licensed in certain circumstances, including, but not limited to: making evaluations and determinations of the appropriate overall combination of mitigations of impacts from forestry activities necessary to protect forest resources; when acting in the capacity of, or to using the title of, a professional forester; and when preparing a timber harvesting plan.

Public Resources Code section 753 provides in pertinent part that:

. . . The professions specified in Section 772 [including Certified Rangeland Management licensees] are not practicing forestry when mitigating or recommending mitigation of impacts from previous forestry activities on related watershed or ecological values within their area of professional expertise or when recommending those mitigations for proposed timber operations. However, public and private foresters are required to be licensed pursuant to this article when making evaluations and determinations of the appropriate overall combination of mitigations of impacts from forestry activities necessary to protect all forest resources.

Public Resources Code section 766 adds that: ". . . it shall be unlawful for any person to act in the capacity of, or to use the title of, a professional forester without being registered pursuant to this article, unless exempted from the provisions thereof."

Public Resources Code section 4581 requires that a timber harvesting plan be prepared by a registered professional forester.

3. "Rangeland Management"

Rangeland is defined in other areas of the Forest Practice Rules: California Code of Regulations, title 14, section 1561.1 and Public Resources Code section 4789.2.

California Code of Regulations, title 14, section 1561.1 (under the Chaparral Management Chapter) states:

"Rangeland" means the land on which the existing vegetation, whether growing naturally or through management, is suitable for grazing and browsing. "Rangeland" includes any natural grasslands, savannas, shrublands, deserts, woodlands, and wetlands which support a vegetative cover of native grasses, grass-like plants, forbs, shrubs, or naturalized species. "Rangeland" is land that is dominated by vegetation other than trees. Many woodlands (including Eastside ponderosa pine, pinyon, juniper, chaparral, and oak woodlands) are included in "rangelands" because their response to range management principles and activities are similar to those of other shrubby ecosystems.

Public Resources Code section 4789.2 (as it relates to Forests, Forestry and Range and Forest Lands) states that:

(e) "Forest and rangeland resources" means those uses and values associated with, attainable from, or closely tied to, forest and rangelands, including fish, range, recreation, timber, watershed, wilderness, and wildlife.

...

(i) "Rangeland" means land on which the existing vegetation, whether growing naturally or through management, is suitable for grazing or browsing of domestic livestock for at least a portion of the year. Rangeland includes any natural grasslands, savannas, shrublands (including chaparral), deserts, wetlands, and woodlands (including Eastside ponderosa pine, pinyon, juniper, and oak) which support a vegetative cover of native grasses, grasslike plants, forbs, shrubs, or naturalized species.

4. "Range Management"

It is important to note that there is no specific definition of the term of "range management," as opposed to "rangeland management." The terms appear to be used interchangeably.

California Code of Regulations, title 14, section 1651 and Public Resources Code sections 731 and 741 mention the terms "managing . . . range," "range management," and "range manager."

Also, Sections 731 and 741 fall under the article of statutes that concern the Board but are not included in the article that governs Professional Foresters.

Should future legislation be drafted in regard to the CRM certification program, this area of ambiguity should be addressed.

D. CRM Certification is Required for Non-Federal, State, and Private Lands

The Board is charged with protecting the forest resources of all the wildland areas of California that are not under federal jurisdiction. These resources include: major commercial and non-commercial stands of timber, areas reserved for parks and recreation, the woodland, brush-range watersheds, and all such lands in private and state ownership that contribute to California's forest resource wealth. Board of Forestry and Fire Protection History, Organization and Mandate, September 2004, http://www.fire.ca.gov/CDFBOFDB/board/board_main.asp.

Public Resources Code section 740 states that the Board "shall represent the state's interest in the acquisition and management of state forests as provided by law and in federal land matters pertaining to forestry, and the protection of the state's interests in forest resources on private lands."

Public Resources Code section 751 states that the purpose of the statutes governing Professional Foresters is to "declare the existence of a public interest in the management and treatment of the forest resources and timberlands of this state."

E. Limitations/Exclusions

If a CRM provides range management services related to the production of forage and livestock on forested landscapes, an RPF shall be consulted if there are potential impacts on related forest resources. California Code of Regulations, title 14, section 1651(b).

Furthermore, Public Resources Code section 756 provides that: "Nothing in [the statutes governing Professional Foresters (sections 750 through 783)] prohibits any person from engaging in those activities otherwise restricted to professional foresters, certified specialists, or qualified but exempt certificants, provided a registrant is in charge of the professional practice or work of that person and all professional work or documents are done by or under the supervision of the registrant."

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California Code of Regulations, title 14, section 1621.1 provides that:

Some forestry-related activities are not considered "forestry work" experience within the meaning of Section 769 of the Code: landscape gardening; horticulture; arboriculture; tree surgery; loading and hauling of logs or other forest products, operations of wood manufacturing or remanufacturing plants; fire lookouts, dispatchers, and fire equipment operators; and agricultural pursuits not related to tree growing.

F. CRMs Are Separately Licensed and Are Not a Specialty Within an RPF License

CRMs are not a specialty within an RPF license, but are separately licensed. Public Resources Code section 772 specifically provides that, instead of being registered as a professional forester, an applicant may request to be registered as a certified specialist in one or more fields of forestry. Also, CRMs are subject to the same disciplinary actions as RPFs. (California Code of Regulations, title 14, section 1650(c)(2).)

ISSUE II: DOES THE BOARD OF FORESTRY AND FIRE PROTECTION HAVE THE AUTHORITY UNDER THE PROFESSIONAL FORESTER'S LAW TO REQUIRE CRM INVOLVEMENT IN RANGE MANAGEMENT PROJECTS THAT OCCUR ON NON-FEDERAL, STATE, AND PRIVATE RANGELANDS?

ANSWER: YES, WHEN THE RANGELAND MANAGEMENT INVOLVES ACTIVITIES UNDERTAKEN ON FORESTED LANDSCAPES.

ANALYSIS:

The Board of Forestry and Fire Protection Has the Authority Under the Professional Forester's Law

Public Resources Code section 740 provides that:

The board shall represent the state's interest in the acquisition and management of state forests as provided by law and in federal land matters pertaining to forestry, and the protection of the state's interests in forest resources on private lands, and shall determine, establish, and maintain an adequate forest policy. General policies for guidance of the department shall be determined by the board.

Pursuant to Public Resources Code section 750, the Professional Foresters Law (Public Resources Code section 750 et seq.) governs the management and treatment of State forest resources and timberlands and to provide for the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of forested

landscapes and the quality of the forest environment. Public Resources Code section 751 states that the purpose of the statutes governing Professional Foresters is to "declare the existence of a public interest in the management and treatment of the forest resources and timberlands of this state and to provide for the regulation of persons who practice the profession of forestry." Public Resources Code section 759 permits the Board to adopt rules to carry out the licensing program and section 762 specifically gives the Board the authority to issue certificates of specialization.

California Code of Regulations, title 14, section 1650 (b) provides that the certified specialty for Certified Rangeland Management shall be implemented and overseen by the Executive Officer, with the assistance of the Examining Committee. California Code of Regulations, title 14, section 739 provides that the Executive Officer is appointed by the Board.

Should the Board ever redefine or expand the CRM certification program, it should ensure that the scope of the services performed pursuant to the certification remains within the definition of forestry and within the authority of the Board.

III. CAUTION RE: UNDERGROUND REGULATIONS

Agencies only have two valid ways to make rules: notice and comment rulemaking and agency adjudication ("precedent decision"), as authorized by Government Code section 11425.60. Regulations must be adopted following the procedures established in the Administrative Procedure Act (APA).

A regulation is defined in Government Code section 11342.600:

Regulation means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Agency manuals, policies, instructions, advisories, and practices that are not based upon the above two methods are improper, unenforceable, and are considered underground regulations. If a state agency issues, enforces, or attempts to enforce a rule without following the APA, the rule is called an "underground regulation." Underground regulations are specifically prohibited by Government Code section 11340.5(a).

If an agency rule looks like a regulation, reads like a regulation, and acts like a regulation, the court will treat it like a regulation regardless of what the agency labels it. *State Water Resources Control Board v OAL* (1993) 12 Cal.App.4th. 697.

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In *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal. 4th 557, the California Supreme Court adopted a three-part test for determining whether regulations that have not been adopted pursuant to APA rulemaking procedures are underground regulations:

- 1) Has the Legislature Expressly Exempted the Regulation at Issue from APA Rulemaking? Courts narrowly construe exemptions from the APA, and require that the exemption appear in the authorizing statute. Where the exemption is not in the text of the statute, courts will not look to statements of the bill's author or the legislative history. *Morning Star Co. v. State Bd. of Equalization* (2006) 38 Cal.4th 324.
- 2) Does the Agency Intend the Regulation to Apply Generally? A rule, standard or procedure is of "general application" if it applies to an open class. *Roth v. Department of Veterans Affairs* (1980) 110 Cal.App.3d 622. The number of class members is immaterial; the determining factor is whether the members of the class could change. If the membership could change, the class is open.
- 3) Does the Agency Use the Regulation to Implement, Interpret, or Make Specific the Law Enforced by the Agency? Most Legislative enactments require some agency interpretation. Any agency document or policy, whether labeled interpretive guideline, implementing procedure, legal summary, or internal memo, that goes beyond restating the elements in the statute and is intended to make specific the law administered by the agency, should be adopted pursuant to the APA. *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal. 4th 557. When deciding whether a written statement merely restates the statutory requirements, courts have ruled that the restatement must be the "only legally tenable interpretation" of the statute. Government Code section 11340.9(f). Anything else is a regulation.

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STATE OF CALIFORNIA

GEORGE DEUKMEJIAN, Governor

BOARD OF FORESTRY

PROFESSIONAL FORESTERS REGISTRATION

P.O. BOX 944246

SACRAMENTO, CA 94244-2460

TELEPHONE: (916) 445-6843
445-3014



June 28, 1990

TO: Bob Kerstiens, PFEC Board Representative

FROM: Bob Willhite *REW*

SUBJECT: Bob Heald's (PFEC Chairman) Suggestion for Range RPF

This memorandum is to summarize Bob Heald's suggestion discussed at the last PFEC meeting.

It is correct that members of the Range Community who want to manage wildland vegetation may qualify to take the Registered Professional Forester (RPF) exam under existing codes (Public Resources Code [PRC], Sections 752, 753, and 769; Title 14, California Code of Regulation [14 CCR], Section 1621.1[b][5]).

One of Mr. Heald's suggestions is to implement a Certified THP Specialist in addition to the license; this can be done by Board regulation (PRC, Section 759, 762 and 772, and 14 CCR 1650), and the idea has also been discussed among Directors of the California Licensed Foresters Association.

Now, and with regulation changes, all applicants must pass the RPF examination. The exam is intended to be a broad measure of an applicant's understanding and working knowledge of wildland resource management (14 CCR 1640.3). If Specialty Certificates are created, specialized information would be taken out of the general exam given every licensee, and instead be given in a specialty portion of the test. For example, with a Certified THP Specialist, questions on the Forest Practice Act would be presented only on that speciality exam.

Bob Heald suggested that specialties could be well-suited to the hardwood-range manager who after qualifying, would first take general RPF wildland management exam, and then take a Certified Hardwood-Range Specialist test. Existing questions on hardwood-range could be expanded by an Ad hoc Committee involving the range-livestock community. Those passing the both exams could use the title, Certified Hardwood-Range Specialist, RPF # ____.

Regulations would have to clarify what services or duties a RPF passing the general exam can provide, and in addition, what activities are limited to those RPFs in each certified speciality.

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DISCUSSION DRAFT FOR REGULATIONS TO CREATE A
CERTIFIED RANGE SPECIALIST
FOR THE STATE BOARD OF FORESTRY'S PROFESSIONAL FORESTER'S LICENSE

December 06, 1990

Proposed language is underlined and existing language is not;
~~Strikeout-is-used-fer~~ existing language proposed for deletion.

Title 14, California Code of Regulation (14 CCR)

Amend 14 CCR 1602.

1602. Professional Forestry Practice Defined. ~~Pursuant-to~~
~~Section-766-of-the-Code,-it-shall-be-unlawful-for-any-person-to~~
~~act-in-the-capacity-of-a-professional-forester-without-being~~
~~registered.~~ The ~~term~~ phrase "act in the capacity of ... a
professional forester without being registered" pursuant to
Public Resources Code (PRC), Section 766 refers to any person
who, for personal gain or compensation, or otherwise, working in
a responsible position as an individual or through the
supervision of others, performs services applicable to "forestry"
~~as-defined in PRC, Section 753 of-the-Code, and clarified in this~~
Section. which Forestry requires specific knowledge for providing
advice to, or management for, employers, clients, or others,
through consultation; through conduct of investigations in
forestry matters which have potential environmental effects, or
are for site-specific purposes; through evaluation of forest
properties; and through planning or execution of forest and
wildland programs, management, operations, or treatment.

A Registered Professional Forester (RPF) shall perform forestry
services only in those subjects competent by training or

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experience. Thus, for a RPF to accomplish a site-specific forestry project where the prudent level of expertise is surpassed, that RPF shall utilize the services of, and coordinate the activities of, other qualified experts including but not limited to: arborists, archaeologists, certified specialists established in addition to the RPF license, civil engineers, erosion control specialists, ecologists, fisheries biologists, geologists, hydrologists, landscape architects, livestock scientists, soil scientists, or wildlife biologists.

Disciplinary action in PRC, Section 778 regarding this Section utilizes "due process" procedures of establishing "standards of conduct" deemed "prudent" and "reasonably expected by a registrant's professional community" to determine when other experts should have been involved.

In carrying out Public Resources Code, Section 772, only a Professional Forester shall perform the following:

(Note: These tasks to be clarified from historical documents.)

Amend 14 CCR 1650

1650. Specialties. Only a person licensed by this Article Registered-Professional-Forester is eligible for certification in a specialty. Application may be submitted for both registration as-a-professional-forester and for certification in a specialty at the same time, but the applicant must be approved for registration-as-a-professional-forester as a licensee before being-considered consideration for certification in a specialty. The-certification-in-a-specialty-is,-in-every-case,-dependent upon-the-approval-of-registration-as-a-professional-forester.

A certificate in each specialty created will shall be issued pursuant to Section 772 of the Code. Specialties will shall be created by regulation as the need arises.

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To protect the public interest, the following specialties shall be implemented and overseen by the Executive Officer, Foresters Licensing, with the assistance of the Professional Foresters Examining Committee (PFEC):

- a) Certified Timber Harvesting Plan Specialist
- b) Certified Range Specialist

Adopt New 1652

1652. Certified Range Specialist [note - landowners are exempt on their own property]

- a) Certification as a Range Specialist is required to provide services pursuant to 14 CCR 1602 relating to trees and woody plants growing in associations for production of forage for livestock.
- b) A licensee with this Specialty shall serve on the Professional Foresters Examining Committee (PFEC) to provide input on applicant qualifications, examinations, and discipline of this certificant.
- c) Qualifications in this Specialty may be achieved by submitting evidence of either of the following:

1) A four (4) year Bachelor of Science degree from an institution approved by the Society for Range Management. [or this could be elevated to the SRM Certification program]*

2) Successful completion of a written exam offered the day preceding the scheduled license exams. All Board codes governing applications and examination apply.

* Note: Non-forestry degrees are currently only recognized for two years of experience substitution; this might be changed to three years towards the basic license.

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DISCUSSION DRAFT FOR REGULATIONS TO CREATE A
CERTIFIED RANGE SPECIALIST
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December 06, 1990

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who, for personal gain or compensation, or otherwise, working in
a responsible position as an individual or through the
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through consultation; through conduct of investigations in
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A Registered Professional Forester (RPF) shall perform forestry
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experience. Thus, for a RPF to accomplish a site-specific forestry project where the prudent level of expertise is surpassed, that RPF shall utilize the services of, and coordinate the activities of, other qualified experts including but not limited to: arborists, archaeologists, certified specialists established in addition to the RPF license, civil engineers, erosion control specialists, ecologists, fisheries biologists, geologists, hydrologists, landscape architects, livestock scientists, soil scientists, or wildlife biologists.

Disciplinary action in PRC, Section 778 regarding this Section utilizes "due process" procedures of establishing "standards of conduct" deemed "prudent" and "reasonably expected by a registrant's professional community" to determine when other experts should have been involved.

In carrying out Public Resources Code, Section 772, only a Professional Forester shall perform the following:

(Note: These tasks to be clarified from historical documents.)

Amend 14 CCR 1650

1650. Specialties. Only a person licensed by this Article Registered-Professional-Forester is eligible for certification in a specialty. Application may be submitted for both registration ~~as-a-professional-forester~~ and for certification in a specialty at the same time, but the applicant must be approved ~~for registration-as-a-professional-forester~~ as a licensee before ~~being-considered~~ consideration for certification in a specialty. ~~The-certification-in-a-specialty-is, in-every-case, dependent upon-the-approval-of-registration-as-a-professional-forester.~~

A certificate in each specialty created ~~will~~ shall be issued pursuant to Section 772 of the Code. Specialties ~~will~~ shall be created by regulation as the need arises.

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To protect the public interest, the following specialties shall be implemented and overseen by the Executive Officer, Foresters Licensing, with the assistance of the Professional Foresters Examining Committee (PFEC):

- a) Certified Timber Harvesting Plan Specialist
- b) Certified Range Specialist

Adopt New 1652

1652. Certified Range Specialist [note - landowners are exempt on their own property]

a) Certification as a Range Specialist is required to provide services pursuant to 14 CCR 1602 relating to trees and woody plants growing in associations for production of forage for livestock.

b) A licensee with this Specialty shall serve on the Professional Foresters Examining Committee (PFEC) to provide input on applicant qualifications, examinations, and discipline of this certificant.

c) Qualifications in this Specialty may be achieved by submitting evidence of either of the following:

1) A four (4) year Bachelor of Science degree from an institution approved by the Society for Range Management. [or this could be elevated to the SRM Certification program]*

2) Successful completion of a written exam offered the day preceding the scheduled license exams. All Board codes governing applications and examination apply.

* Note: Non-forestry degrees are currently only recognized for two years of experience substitution; this might be changed to three years towards the basic license.

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Adopt New 1652

1652. Certified Professional Hardwood-Range Specialist

1) Certification as a Professional Hardwood-Range Specialist is required to provide services on wildlands consisting of the following vegetative cover types.

Conifer: pinyon-juniper and juniper; and only for proposing range management practices for montane hardwood conifer or eastside pine, and

(2) All hardwood cover types: valley foothill hardwood, montane hardwood, valley riparian, montane riparian, valley foothill hardwood conifer, valley foothill riparian, eucalyptus, aspen, and

(3) Shrub cover types: alpine dwarf shrub, chamise-redshank chaparral, mixed chaparral, montane chaparral, coast scrub, sagebrush, bitterbrush, and low sagebrush when proposed or existing associations of trees and woody plants are involved, and

(4) Herbaceous cover types when proposed or existing associations of trees and woody plants are involved: wet meadow, annual and perennial grassland

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Amend 14 CCR 1600

1600. Definitions.

~~"Certified-Forestry-Specialist"-refers-to-a-person-who-holds-a
valid-certification-in-a-specialty-created-by-the-Board.~~

(Note: Not needed, covered by PRC, 772, and not used in any existing regulation)

"Forest resources and timberland" in PRC, 751, means land growing
"timber" and not already converted to other dominant uses, unless
proposed for growing timber. For PRC, Section 750 to apply,
"wildland" must be involved on the following vegetation cover
types listed by the 1988 report, "California's Forest and
Rangelands: Growing Conflict Over Changing Uses", Appendix A,
prepared by, and available from, the Department of Forestry and
Fire Protection (CDF) in the Forest and Rangeland Resources
Assessment Program (FRRAP) pursuant to PRC, Section 4789.3, and
referencing "A Guide to Wildlife Habitats of California" co-
authored by CDF, and includes:

- (1) All conifer cover types: mixed conifer; ponderosa pine,
Douglas-fir, Jeffrey pine, red fir, lodgepole pine,
subalpine conifer, redwood, closed-cone pine cypress,
pinyon-juniper, juniper, montane hardwood conifer, eastside
pine, and
- (2) All hardwood cover types: valley foothill hardwood, montane
hardwood, valley riparian, montane riparian, valley foothill
hardwood conifer, valley foothill riparian, eucalyptus,
aspen, and

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(3) Shrub cover types: alpine dwarf shrub, chamise-redshank chaparral, mixed chaparral, montane chaparral, coast scrub, sagebrush, bitterbrush, and low sagebrush when proposed or existing associations of trees and woody plants are involved, and

(4) Herbaceous cover types when existing, or proposed, associations of trees and woody plants are involved: wet meadow, annual and perennial grassland

The following vegetative cover types NOT included in PRC, 751 and 753 include: fresh emergent wetland, saline emergent wetland, riverine, lacustrine, estuarine, marine, desert riparian, desert wash, palm oasis, joshua tree, desert scrub, desert succulent shrub, alkali desert scrub, pasture, or improved lands under agricultural tillage or treatment in food producing cropland or orchard-vineyard, or urban cover types.

Authority: PRC, Sections 759 and 763(c).

Reference: PRC, Section 751, 753; Forest and Rangeland Resources Assessment and Policy Act (FRRAP) of 1977, PRC, Sections 4789 and 4789.2 (subsections [e] through [h]); 1988 FRRAP Report (PRC, Section 4789.3) Appendix A, referencing: "A Guide to Wildlife Habitats of California, edited, Mayer and Laudenslayer, Jr., in conjunction with CDF, 1988. PRC, Sections 713, 714, 4126, 4291, 4464, 4637, 4701, 4712, 4713, 4789.2, and 4793. 14 CCR 1602.

"Timber" means wood fiber which may, or may not, be used for commercial purposes.

"Wildland" is a composite term used in numerous Board codified mandates which includes lands segmented by the terms grassland, brushland, and forestland or timberland. For the purposes of

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this Article, the term "wildland" also describes a characteristic of these lands, and is limited to the vegetative cover types in this Article comprising "forest resources and timberland". Wildland is further identifiable by the absence of urban development; therefore, wildland involves:

(a) , or is appropriate for, land use(s) essentially retaining the natural character and ecological dynamics, but may involve scattered houses and/or outbuildings and related improvements, interspersed among a vegetation cover type, and

(b) supports primarily native (indigenous) trees and woody plants, but may involve introduced (exotic or alien) species.

"Urban development" includes improvements such as paved driveways and sidewalks; irrigation systems for ground cover, lawns or gardens associated with residences or related structures, fire hydrants; commercial or industrial sites, landscaped urban parks or golf courses, institutional or administrative sites, cemeteries, airport landscaping; or windbreaks mitigating the factors of heat, chill, or sound. Trees and woody plants within urban development are secondary to developed uses, and consultation, evaluation, planning, and management does not require a RPF.