

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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April 8, 2014

Mr. Stuart Farber
Chairman, Management Committee
State Board of Forestry and Fire Protection
P. O. Box 944246
Sacramento, CA 94244-2460

Re: Working Forest Management Plan (WFMP) Comments

Dear Mr. Farber:

The California Department of Forestry and Fire Protection (CAL FIRE) has conducted an initial review of the draft rule package for the implementation of AB 904 for the "Working Forest Management Plan" to be added to Title 14, California Code of Regulations (CCR) beginning as Section 1094. Although the Department has provided some comments regarding certain minor corrections and suggested language regarding clarity that are included in the April 3, 2014 draft, there will likely be additional comments as the proposed rule language develops. Some of the Department's other concerns in regards to the April 3, 2014 draft include:

- 1) How to handle multiple landowners and plan submitters? The definition 1094.2 (j) defines the "Working forest landowner" as "*owner of timberland with less than 15,000 acres who has an approved WFMP and is not primarily engaged in the manufacture of forest products*". The Department will need clarity on how to handle certain situations, such as:
 - a. Are all owners also plan submitters as stated by 1094.3 (a)?
 - b. Does the reference of 15,000 acres apply to each landowner or collectively?
 - c. Would different owner acres only be combined when there is an undivided interest, and full ownerships require its own WFMP?
 - d. What assurance will CAL FIRE have that harvesting is scheduled, planned, and coordinated in conformance with the RPF's MSP demonstration.

There have been situations in regards to NTMPs in the past, especially as time moves forward when the transfer of ownership occurs through sale or inheritance, and the new owners do not have the same initial objectives.

- 2) Subsection 1094.3 (e) (page 4, line 7) requires notification to persons with property interest within 300 feet of the "plan boundary", which as defined would include all of the appurtenant roads. Considering a 15,000 acre plan, the noticing to all with equitable title within the logging area may have considerable ramifications versus just noticing those within 300 feet of the "logging area".

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- 3) Subsection 1094.3 (f) requires Department notification, and large plans may greatly increase mailing responsibilities.
 - a. Considering Department staffing it may be appropriate to have this responsibility be the Plan Submitter for the proper notification.
 - b. An alternative may be to allow widespread notification through newsprint.
- 4) Section 1094.6 provides three functions, including providing notification to the Department, to provide direction for complying with the rules of the Board, and to disclose potential effects to the public. Should requirements also be included to meet other California laws and regulation such as notification for DFW 1611 projects and to the Department of Water Resources?
- 5) Subsections 1094.6 (d) and (f) requires a “description of the plan area” for mapping (page 5, line 18), and contents of the WFMP (page 6, line 19), which would include the appurtenant roads versus just the logging area, and may include a much larger area. What specific descriptions of appurtenant roads would be required?
- 6) Paragraph 1094.6 (f) (7) refers to potential sediment discharge in an amount “deleterious” to the beneficial uses of water (page 7, line 16), which would be considered a water quality violation. Instead of “deleterious” it may be better to use “significant sediment discharge” to be consistent with the proposed road rules definition.
- 7) Paragraph 1094.6 (g) (10) allows for management of late succession forest stands in a manner that maintains or enhances the overall acreage. This appears to be unclear if maintaining and enhancing would be through retaining late succession forest trees or habitat.
- 8) Subparagraph 1094.6 (g) (10) (B) requires a description of how hardwood trees will be managed (page 8, line 10). Would clarification be necessary in regards to size or age class?
- 9) Paragraph 1094.6 (g) (11) requires disclosure of listed species and how forest management will maintain “these” over time (page 8, line 15), but is unclear if this would be for protection of species, habitats, or both.
- 10) Subparagraph 1094.6 (g) (14) (B) allows for a “comparable typing system” (page 9, line 5) addressing species habitat needs, and perhaps DFW’s white paper addressing WHR 6 should be included as an appropriate reference.
- 11) Section 1094.7 allows (page 11, line 9) the person submitting a Working Forest Harvest Notice to notify the timberland owners by certified mail of the submittal. To assure that the submitter of the Notice has the proper authority the Department would need written authorization signed by all of the appropriate Timberland Owners.
- 12) Subsection 1094.8 (e) for the contents of the Notice (page 12, line 1) requires information of the RPF who prepared the WFMP, but should also provide the information of the supervising RPF for the Notice and the conduct of operations.

- 13) Subsections 1094.8 (f) and (g) need to require certification by the RPF preparing the Notice.
- 14) Paragraph 1094.8 (i) (2) would provide an exception (page 13, line 3) of adherence to certain current or modified rules when it causes an unreasonable expense. This language should be compatible with PRC § 4583, and clarify that it does not apply for protection of listed species.
- 15) Paragraph 1094.8 (m) (2) provides LTO instructions in the Notice and should also include "road maintenance".
- 16) Subsection 1094.8 (n) states (page 13, line 27) "Color coding shall not be used." It is proposed that this could be revised to state "Color coded maps shall not be used unless additional black and white maps are provided to clearly show the same features."
- 17) Paragraph 1094.8 (n) (1) states (page 13, line 8) "Boundaries of area to be harvested." It is proposed that this could be revised to state "Logging area boundary proposed for harvest under the Notice."
- 18) Section 1094.10 describes the Plan Submitter responsibilities, and the concern would be if there are more than on plan submitters.
 - a. Are all plan submitters responsible?
 - b. Should there be one Plan Submitter who is authorized by all of the timberland owners?
- 19) Subsection 1094.10 (f) requires notification to the Director (page 14, line 15) prior to commencement of site preparation operations, which may be state notification to the "appropriate review team office."
- 20) Section 1094.12 requires the RPF and LTO to meet (page 16, line 16), and written notification to the Department may necessary to assure compliance and to provide clarification if available.
- 21) Section 1094.13 provides the LTO responsibilities, which should include notification to the Department of any change in the LTO responsibilities or status.
- 22) Paragraph 1094.16 (b) (7) requires notification in writing (page 19, line 14) to any person who requests to be notified of the filing of a Notice. To provide for efficient notification it would be beneficial to include noticing by e-mail.
- 23) Subsection 1094.17 (a) includes a provision of providing copies of a WFMP to such persons (page 19, line 25), although this doesn't make sense without the deleted provision similar to the NTMP rules that state "The Director shall also transmit a copy of any specific plan to any person who has made a written request therefore."
- 24) Paragraph 1094.17 (b) (2) indicates recirculation of the "entire plan" (page 20, line 6) when the significant changes are not limited to a few sections. For efficiency and clarity, it may be better to just recirculate the "pertinent sections of the plan".

- 25) Section 1094.18 provides for a time period for public comment (page 21, line 10) starting from the receipt of the plan as per PRC § 4597.6. Considering Section 1094.18 (d) there is:
- a. 30 working days (a minimum of 6 weeks or 42 days) to file;
 - b. 30 working days (a minimum of 42 days) to complete the inspection;
 - c. 45 working days (a minimum of 63 days) to complete the interagency review;
 - d. 20 working days (a minimum of 28 days) of additional comment period.

Since Subsection 1094.18 (a) is based on calendar days from the date of receipt, and Subsection 1094.18 (b) is based on working days, it appears that there may be up to a maximum of 175 calendar days, not including holidays that public comment may be open for any size WFMP. Paragraphs 1094.18 (a) (1), (2), and (3) describes the length of public comment period, and should be considered a minimum period and indicate that the period may be a longer.

- 26) Paragraph 1094.18 (d) (2) requires that an inspection (page 21, line 21) be completed no more than 30 working days from the filing date. This could only be 10 working days (two weeks) from the initial inspection, and is not a realistic time frame for an interagency field review for a large WFMP up to 15,000 acres.
- 27) Section 1094.24 provides for Director's determination (page 24, line 14) if either of the flowing conditions are met referring to Subsections 1094.24 (a) or (b). Subsection 1094.24 (c) should be under a section regarding the review process of an amendment and not under a section regarding the determination of an amendment.
- 28) Paragraph 1094.26 (b) (3) indicates (page 26, line 12) the Department will conduct a "review" of the WFMP. Clarification appears to be necessary to what constitutes "a review" in regards to portions or a full review of the entire plan.

Thank you for the opportunity to provide comments regarding this important rule package. I look forward to continue working with the Committee on developing this comprehensive rule package for the implementation of AB 904.

Sincerely;

William D. Solinsky, RPF #2297
Forester III, THP Administration