**Brief History of the Adoption of MSP Rules**

In the late 1980s and early 90s, much attention was focused on the concepts that pertain to sustained yield and production. This was exemplified by various ballot initiatives[[1]](#footnote-1) and attempts by the State to come to agreement with all parties. These initiatives came to naught, and the BOF took up issue. Below is a synopsis.

After the failure of the 1990 initiatives, the Sierra Accord of 1991, the Grand Accord of 1992 and a court injunction of the Emergency Rules in 1992[[2]](#footnote-2), the Board of Forestry was under extreme pressure from the Governor to pass rules to protect old growth, watersheds, domestic water sources, sustained yield and a variety of administrative guidance rules. Five hearings, starting with the December 1991 Board meeting in Sacramento, were held to make permanent those issues covered by the Emergency Rules. All these rules did not become effective until March and May 1994.

# Maximum Sustained Production of High-Quality Timber Products

One of the most difficult and contentious topics in these discussions was the attempt to interpret the phrase “maximum sustained production of high-quality timber products” (MSP) contained in the intent language of the Forest Practice Act[[3]](#footnote-3).

Section 4513 of the PRC lists MSP as a goal of the Forest Practice Act, as well as the restoration, maintenance, and enhancement of timberland productivity. Within the same provision of Section 4513, the legislature instructs that MSP is to be considered in relation to a list of other values, which now includes sequestration of carbon dioxide, recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment. Within the same section, the legislature identifies the additional goal of the Forest Practice Act of the restoration, maintenance, and enhancement of timberland productivity. Each of these terms is clarified in relation to timberland productivity within the regulations and include maintenance of sufficient growing stock.

Numerous interpretations of the meaning of “Maximum Sustained Production of High-Quality Timber Products” were discussed. Some contended that the phrase meant that trees emphasis should be given to long rotations of bigger, older trees. In contrast, others argued that it was inappropriate for the Board to dictate product quality, mix, or rotation age on private lands – except as it related to the protection of public trust values. That contention reflected the view that longer rotations are uneconomical at realistic interest rates and that the risk of loss to wildfire, insects and disease was too great.

In this debate, the Board considered the concern of protection for values supported by longer rotations as part of its late successional rules[[4]](#footnote-4) that required identification, analysis, and protection of stands of bigger, older trees. To the extent that MSP implied minimum aged, sized, and numbers of trees, the Board set minimums elsewhere in the rules. [[5]](#footnote-5) Specifically, for even aged management, minimum reentry times of 50, 60, or 80 years were set, depending on site quality. For unevenaged management systems, the board set minimum basal area requirements after harvest.

Another aspect of the MSP debate was a concern about requiring sustained harvest levels that would provide for a steady timber supply and long-term employment in rural timber dependent communities. The Board attempted to balance preserving owner options with demonstrating sustainability. This concern was addressed in a sustained yield plan or as part of a regular THP (Option A).

**Silviculture with Sustained Yield Rules**

The Board began hearings in December 1991 on language almost identical to the defunct Emergency Rules. By June 1992 they had identified numerous significant changes they wished to make in the language. A new notice for an August 1992 hearing was issued. The proposed rules modified the old rules to 1) increase limitations on evenaged management, 2) clarify what constituted the different evenaged management methods, 3) revise the unevenaged methods to better fit the contemporary harvesting practices and provided better disclosure of post harvest conditions, 4) provide additional protection for the biological diversity of native commercial conifers; and 5) establish an optional Sustained Yield plan which would address wildlife, water quality, and long-term sustained yield on a landscape basis.

The rules included a new section explicitly addressing MSP. This section stated the goal of MSP was “to restore, enhance, and maintain the productivity of timberlands, where feasible” and defined the terms “restore”, “maintain” and “enhance”, and included provisions which required the protection of public trust values. The rules also described the steps necessary to meet the goal of MSP and gives guidelines for addressing MSP in a THP, SYP, or NTMP.

Eventually, the concepts of timberland productivity and MSP were made distinct in that the rules regarding the intent of the act pertaining to the restoration, maintenance, and enhancement of timberland productivity were one aspect of consideration to facilitate the achievement of the ultimate goal of MSP and the two were put into separate sections.

Rules pertaining to regeneration methods used in even-aged and uneven-aged management were amended to be consistent with the silvicultural objectives. Even-aged management rules included: (1 where a regeneration harvest will occur on stands less than 50-80 years of age (depending on site class) the RPF must demonstrate how proposed harvesting will provide for increased long-term sustained yield; (2 an exemption from fixed rotation ages is provided for hardship cases; (3 acreage limitations for regeneration units of 20-40 acres depending on yarding method and environmental impact; (4 buffer areas between regeneration units as large as the unit being harvested or 20 acres (whichever is less) and separation by 300 feet in all directions; (5 reentry limitations where regeneration must be at least five feet and three years in the Coast and five feet or five years in the interior districts; (6 requirements for consideration of aesthetics and stand vigor in the proximity of roads and adjacent non-federal and non-TPZ land; and (5 further guidelines for clearcutting, seed tree, and shelterwood regeneration methods. The Board set sustainable standards at a rotation age that it believed was a reasonable and practical standard for landowners and that protected public trust values.

The unevenaged management rules included: (1 a size limitation on regeneration areas harvested under the group selection regeneration method of 2.5 acres; (2 marking requirements; (3 post-harvest stand stocking levels must be stated in the THP and be consistent with MSP of high quality timber products; (4 minimum stocking standards for selection and group selection methods; (5 guidelines for the transition method, intermediate treatments, and rehabilitation of under-stocked areas; (6 requirement for a preliminary report on the degree of stocking where artificial regeneration is specified in the plan; and (7 modified standards for the approval of alternative prescriptions.

Rules regarding the definition of Adequate Site Occupancy were also amended to describe the point at which maximum individual tree growth and maximum overall stand growth existed when stocking levels were within Zones 2 and 3 of what is known as the Langsaeter curve. This definition reflected the professional opinion of the Department of Forestry and Fire Protection and practicing foresters regarding a feasible standard of occupancy.[[6]](#footnote-6)

1. California Proposition 130, 1990 “Restrictions on Logging and Bonds for Forests Initiative” [↑](#footnote-ref-1)
2. The California Regulatory Law Reporter Vol.12, Nos. 2 & 3 (Spring/Summer 1992) p. 241 [↑](#footnote-ref-2)
3. Chapter 8, Part 2, Division 4, Public Resources Code [↑](#footnote-ref-3)
4. Board Rulemaking File 186 [↑](#footnote-ref-4)
5. Board Rulemaking Files 190 through 194 and 200 [↑](#footnote-ref-5)
6. Board Rulemaking File 192 [↑](#footnote-ref-6)