

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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June 3, 2022

Dr. Keith Gillless, Chair  
State Board of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

**Re: “Class II-L Determination Amendments, 2022”**

The California Department of Forestry and Fire Protection (CAL FIRE) supports the Board of Forestry and Fire Protection’s (Board) adoption of the proposed rulemaking entitled “Class II-L Determination Amendments, 2022.” The proposed rulemaking seeks to simplify the regulations used to identify Class II-L watercourses by eliminating the channel width criteria contained in §§ 916.9(g)(1)(A), 936.9(g)(1)(A), and 956.9(g)(1)(A). It also removes the “sunset” provision of the regulations contained in §§ 916.9(g)(1)(C), 936.9(g)(1)(C), and 956.9(g)(1)(C). These proposed rule revisions are consistent with the findings of the Effectiveness Monitoring Committee (EMC) project EMC-2015-001. This project specifically evaluated the rule criterion for identifying Class II watercourses with summertime surface flow, and therefore, the potential to translate thermal impacts to downstream fish-bearing waters.

Studies conducted under EMC-2015-001 found that drainage area was a much better determinant of perennial and/or connected surface flow to downstream fish-bearing waters, and also that channel width predicted in the opposite manner than was assumed in the existing regulation (i.e., wider watercourses were drier). Additional analysis of the raw data from the study conducted by Pate and others (2020)<sup>1</sup> concluded that the drainage area necessary to support perennial and/or connected surface flow was consistent with the existing drainage area rule criterion in the Coast and Northern Forest Practice Districts. These findings support the removal of the channel width criteria and confirm the effectiveness of the drainage area criterion, as recommended in this rulemaking proposal.

Finally, CAL FIRE recognizes that the proposed rulemaking represents the first instance of an EMC project informing regulatory decision-making. This fulfills a primary goal of the EMC, which is to implement a rigorous adaptive management strategy to assist in Board decision-making. Moreover, it confirms the benefit of effectiveness monitoring as a form of applied science that can help guide management and regulatory decisions in the face of uncertainty.

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Pate, A. A., Segura, C., Bladon, K. D. Streamflow permanence in headwater streams across four geomorphic provinces in Northern California. *Hydrologic Processes*. 2020;34:4487–4504. DOI: 10.1002/hyp.13889

Thank you for the opportunity to comment and offer our support for this rulemaking proposal. A representative from CAL FIRE will be at the hearing should any questions arise.

Sincerely,

DocuSigned by:  
  
MATTHEW REISCHMAN  
Deputy Director  
Resource Management