Staff Overview: Noticing Processes under the Forest Practice Rules

# Issue as Raised During the Call for Regulatory Review

During the 2024 Call for Regulatory Review, the California Forestry Association raised concerns about the rules concerning procedures for noticing. One issue raised was Review Teams rejecting Plans due to differences between the information on adjacent landowners that the Review Team has access to and the information on adjacent landowners available from a specific title company or equalized assessment roll. The California Forestry Association also asked for a general review of notice processes for consistency.

# Use of Title Insurance or Equalized Assessment Rolls

Throughout the rule text, information on the names and mailing addresses of property owners near the Plan must be compiled from a list provided by one of two sources: a “Title Insurance Company” and an “Equalized Assessment Roll”. The “Equalized assessment roll of the county” is used in all county-specific regulations within the Rules. “Title Insurance Company” and “Title Company” are used interchangeably.

“Title Insurance Company” – §§ 924.1, 925.2, 926.3, 1090.2, 1094.3

“Title company” – §§1038.7, 1092.04

“Equalized assessment roll of the county” – §§924.1, 925.2, 926.3

“Equalized assessment roll” – §§1032.7, 1090.2, 1092.04, 1094.3

The Equalized Assessment Roll is described in RTC §§ 2050-2125 and is updated yearly on August 20th. Title companies provide information on the history and ownership of a specific parcel. Title insurance companies provide title company services and insure properties in the case of disputed title claims.

# Procedures in Noticing

The California Forestry Association requested a discussion of timelines for notifications by the Department, specifically concerning plan return, filing date versus approval date, and timelines for physical postings on property. They also asked for clarity on how the process differs between harvest documents and by county.

The notice process works as follows for Timber Harvesting Plans:

* The Plan Submitter notifies all other landowners within 1000 feet downstream of the Plan Boundary with ownership that adjoins or includes a Class I, II, or IV watercourse that receives surface drainage from the proposed Timber Operations that Domestic Water Use from the watercourse will be downstream from Timber Operations. If such notice is necessary, the Plan Submitter shall also publish notice in a local newspaper. This notice shall request a response within ten days and shall be publish ten days before a Plan is submitted.
* Before Plan submission, the Plan submitter posts a copy of the Notice of Intent in a conspicuous location near the Plan that is accessible by the public.
* When the Plan Submitter submits a Plan to the Department, a Notice of Intent and a list of property owners within 300 feet of the Plan (and electric powerline utilities operating within 200 feet of the Plan) is included.
* Within two working days, the Department distributes a copy of the Notice of Intent to the listed property owners and electric utilities, the office of the county clerk, the local CAL FIRE unit headquarters for posting, and other locations as deemed desirable and feasible for adequate public notice.
* The Department also creates a Notice of Filing using the basic information in the Notice of Intent and the assigned timber harvesting plan number. This notice of filing is distributed within two working days after plan submission to: the Plan submitter, the office of the county clerk, the local CAL FIRE unit headquarters for posting, other locations as deemed desirable and feasible for adequate public notice, to all public agencies having custodial responsibility for lands within 300 feet, and others as required by PRC §§ 4582.4 and 4582.6.
* PRC § 4582.4 requires notification of all parties that have expressed interest in the Plan, PRC § 4582.6 requires notification of agencies including CDFW, the local RWQCB, CGS, DPR, the county planning agency, and if appropriate, TRPA or California Coastal Commission.
* Upon receipt of the filed Plan, the Department shall place a true copy in a file available for public inspection and shall transmit a copy to CDFW, the local RWQCB, CGS, DPR, the county planning agency, and if appropriate, TRPA or California Coastal Commission.

The notice process varies from the requirements for THPs for NTMPs, PTHPs, and WFMPs in the following respects:

* NTMPs and WFMPs use a “Notice of Preparation” for the preparation of their durable forest management document instead of a “Notice of Intent”.
* The requirements for public posting of a “Notice of Preparation” require posting in a place near the Plan and visible to the public. The requirements for posting a “Notice of Intent” require posting on the public road nearest to the Plan location with colored paper or flagging.
* The contents of the Notice of Intent vary as follows: There is minor variation in the requirements describing the nearest perennial watercourse. NTMPs and WFMPs do not need to include a map of the proposed management plan area or a statement directing questions or concerns to the applicable CAL FIRE review team office in the Notices of Preparation.
* Only THPs contain a statement concerning reporting on the presence of known electric power lines.
* WFMPs do not require distribution of the Notice of Filing to the parties described in PRC §§ 4582.4 and 4582.6.
* PTHPs do not require notification of downstream property owners for Domestic Water Use.

The notice process varies regarding subdistrict and county-specific rules as follows:

* The Southern Subdistrict requires that the Plan Submitter
  + include the names and addresses of all property owners within 300 feet of the exterior boundaries of the assessor’s parcels where a Plan has been submitted.
  + include the names and addresses of all property owners with property fronting or bordering that portion of the haul route between the Plan area and the nearest public roads.
  + include stamped envelopes labeled with the names and addresses of the above property owners for mailing the Notice of Filing
  + mail copes of the Notice of Intent to the above property owners and certify in the Plan that this has occurred.
* The Southern Subdistrict requires that the Director:
  + Include the date, time, and location of the public hearing in the Notice of Filing.
  + Include the date, time, and location of the review team meeting, if it is known in the Notice of Filing.
  + Send a copy of the Notice of Filing to all property owners listed by the Plan Submitter.
  + Send a copy of the Notice of Filing to a newspaper of general distribution in the area.
* Santa Clara County requires that the Plan Submitter
  + include the names and addresses of all property owners within 300 feet of the exterior boundaries of the assessor’s parcels where a Plan has been submitted.
  + include the names and addresses of all property owners with property fronting or bordering that portion of the haul route between the Plan area and the nearest public roads.
  + mail copes of the Notice of Intent to the above property owners and certify in the Plan that this has occurred.
* Santa Clara County requires that the Department:
  + Transmit copies of the Plan to the local school district where the Plan is located and the Santa Clara Valley Water District.
* Santa Cruz County requires that the Plan Submitter
  + Include a statement that approximate property lines have been flagged for review where truck roads, tractor roads, or Harvest Areas are within 100 feet of the property line.
  + If helicopter yarding is proposed, include a map in the Notice of Intent that identifies the areas within the Plan area that are proposed for helicopter operations, as well as information on the duration of helicopter yarding activities.
  + Include the names and addresses of all property owners within 300 feet of the exterior boundaries of the assessor’s parcels where a Plan has been submitted.
  + Include the names and addresses of all property owners with property fronting or bordering that portion of the haul route between the Plan area and the nearest public roads.
  + Include the names and addresses of all private road association members. Private road associations are on a list maintained by the county and provided to the Director.
  + Include, if helicopter yarding is proposed, the names and addresses of property owners with property located within 3000 feet of any location in which logs are picked up, carried, or landed, or where helicopters are serviced.
  + Mail copes of the Notice of Intent to the above property owners at least ten days before plan submission
  + Post a copy of the Notice of Intent at a conspicuous location on the private road where a majority of road association members can view the notice.
  + If helicopter yarding is proposed, post a Notice of Intent in a conspicuous location, at minimum, every half mile on all public roads within a 2-mile radius of the proposed area of operations.
  + Mail the Notice of Intent to all members of the Board of Supervisors in whose district any timber operation is proposed, the local school district, any local publicly-owned water district or community water system or water storage facility downstream from any location within which any Timber Operation is proposed.
  + Certify in the Plan that the above notifications have occurred.
  + Publish the Notice of Intent in a newspaper of general distribution in the area and provide proof of publication to the Director before a determination is made.
* Marin County requires that the Plan Submitter and Director:
  + Follow all the noticing requirements for the Southern Subdistrict.
  + Send the Notice of Intent and Notice of Filing to the appropriate publicly owned water purveyor and to any school district or private school on the haul route (excepting Hwy 101).
* Monterey County requires that the Plan Submitter
  + Include the names and addresses of all property owners with property fronting or bordering that portion of the haul route between the Plan area and the nearest public roads when submitting the plan.
* Monterey County requires that the Director
  + Give a public hearing if requested by any adjacent property owner, including landowners along haul routes.
  + Invite those property owners along haul routes to any public hearing

# Changes to §1034(r) Contents of Plan

The reference to 1032.7(f) in 14 CCR § 1034(r): is obsolete since it refers to the past requirement that the RPF distributes and publishes a copy of the Notice of Intent. This was changed in “Utility Notice of Overhead Operations, 2018”, and “Notice of Intent Amendments, 2022”.