

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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May 26, 2021

Mr. Matt Dias, Executive Officer  
California Board of Forestry and Fire Protection  
PO Box 944246  
Sacramento, CA 94244-2460

**Subject: Board of Forestry and Fire Protection Draft Guidance on Botanical Surveys.**

Dear Executive Officer Dias,

The California Department of Forestry and Fire Protection (CAL FIRE) appreciates the opportunity to provide comments as the Board of Forestry and Fire Protection (BOF) evaluates how best to address botanical resources in timber harvesting plans, non-industrial timber harvesting plans and working forest management plans (collectively Plans). CAL FIRE is the lead agency that regulates timber harvesting activities on over eight million acres of private timberlands in the State of California through a certified regulatory program under the California Environmental Quality Act (CEQA) and the authority of the California Forest Practice Act and Rules. These rules are intended to preserve and protect fish, wildlife, and other natural resources, including botanical species. Additionally, CAL FIRE manages timberland through the development of timber harvesting plans on eight Demonstration State Forests, totaling 71,000 acres. CAL FIRE also regularly initiates and oversees funding grant disbursement for a wide range of projects across the state, including fuel break development and habitat restoration projects, among others. These projects are subject to the federal and California Endangered Species Acts, as well as CEQA.

**BOF Guidance**

The BOF developed proposed changes to Forest Practice Rule Technical Rule Addendum No. 2 for the January 2021 BOF meeting and a guidance document titled, "RPF Guidance Regarding Botanical Surveys Involving Plant Species of Consequential Status Under the Forest Practice Act and CEQA" (BOF Guidance) for the May 2021 BOF meeting. CAL FIRE appreciates and supports the well-developed BOF Guidance as well as the proposed Technical Rule Addendum language and supports providing updated botanical guidance in lieu of developing regulation. However, it is important to note that potential deficiencies in the existing Plan review process have not been adequately identified, nor has there been documentation that following existing processes has resulted in significant adverse impacts to any species.

The intent of the BOF Guidance document is to supplement previously provided botanical guidance by CAL FIRE and the California Department of Fish and Wildlife (CDFW), and address areas of conflict between the previously issued guidance. The BOF Guidance

introduces a new term, “Species of Consequential Status.” The purpose of the term is to avoid use of “special status plant species” as it lacks definition, further defining “plant species of special consequence under CEQA” as species for which CEQA mandates a finding of potential significant impact, as described in 14 CCR §15065. CAL FIRE believes adding a new term that similarly lacks legal definition is confusing and does not further the Board’s desire for clarity. For improved clarity, CAL FIRE suggests the term “special status plant species” be interpreted to have the same meaning as the Board’s new term “species of consequential status.” Maintaining the use of a known and familiar phrase and assigning the intended definition would be appropriate, provide consistent application of the term and provide guidance for its interpretation.

### **CAL FIRE Species Guidance (1999)**

CAL FIRE, as lead agency, cannot approve Plans that may result in “take” of any species listed under the federal or state Endangered Species Acts, or that may result in a significant effect to a species, specifically those that may be considered to meet the criteria of endangered, rare, or threatened pursuant to 14 CCR §15380(d). As lead agency, CAL FIRE has developed memos over the years for agency staff as well as the regulated public to provide guidance regarding laws and regulations pertaining to species disclosure and protection measures. CAL FIRE (formerly referred to as CDF) provided such guidance specific to scoping and surveys for fish, wildlife, and botanical species in a 1999 memo titled, “CDF Guidelines for Species Surveys, Avoidance of Significant Impacts and Identified Mitigations.” The memo is cited in CAL FIRE’s 2009 memo for Review Team considerations for botanical resources. The 1999 memo outlines a process for scoping, species surveys, and mitigation measures that CAL FIRE believes is still relevant.

CAL FIRE believes the spatial and temporal scale of a project are paramount in the evaluation of potential adverse impacts to species and habitats. Project size and harvest intensity are highly variable, and the evaluation of potential impacts must acknowledge this variability. Because timber harvesting plans can propose a wide range of silvicultural prescriptions, any ‘one size fits all’ approach to the protection of faunal or floral resources is inappropriate.

CAL FIRE appreciates the opportunity to comment on the Board’s draft guidance document and looks forward to continued participation in the Forest Practice Committee’s deliberations on the subject. If you have any questions or comments regarding this letter, please contact Forest Practice Staff Chief, Eric Huff at [eric.huff@fire.ca.gov](mailto:eric.huff@fire.ca.gov) or 916-217-8647.

Sincerely,

*Dennis Hall*

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