**State of California The Resources Agency**

**Memorandum**

|  |  |  |
| --- | --- | --- |
| **To:**         | Edith HanniganExecutive OfficerBoard of Forestry and Fire Protection  | **Date:** March 28, 2022 **Telephone:** (916) 203-7455  **Website:** www.fire.ca.gov |

**From: Stewart McMorrow**

**Forest and Fire Protection Administrator**

**Wildfire Resilience**

**Department of Forestry and Fire Protection**

 **John Ramaley**

**Forestry Assistance Program Manager**

**Department of Forestry and Fire Protection**

|  |  |
| --- | --- |
| **Subject:**  | 1. Proposed Additions to Management Plan Requirements for CFIP Projects that have been substantially damaged by wildfire, where post-harvest salvage through the use of Emergency Notices (14 CCR §1052) have been utilized
2. Proposed changes to CFIP Cap Rates to account for inflationary increases that have occurred since the last cap rate adjustment in 2019
 |
|  |  |

The California Forest Improvement Act of 1978 (PRC 4790-4799.05) was created to provide cost-share incentives for California small non-industrial forest landowners to invest in their property for the restoration, improvement and maintenance of forestland. The Act also had further objectives, to promote a healthy forest products industry, and to provide additional benefits including employment opportunities in both rural and urban areas, renewable energy, protection and enhancement of air, water, and soil resources, fish and wildlife habitat, and opportunities for aesthetic and recreational enjoyment.

CAL FIRE’s California Forest Improvement Program (CFIP) has been in operation for over 40 years, providing forest landowner technical assistance, landowner education, and cost-share opportunities for forest health improvement on non-industrial forestland ownerships. In the past 4 decades, funding has been sporadic, and for decades was tied to the Forest Resource Improve Fund (FRIF), which was tied to state forest timber sales. The 2021 Early Action funding, and additional funding for the Wildfire Resilience program in the 2021-2022 budget provided the largest pulse of funding for CFIP in the program’s history. With the release of Governor Newsom’s California Blueprint for 2022-2023, additional increased funding to CFIP is expected to continue for forest health improvement projects.

**Wildfires:**

Governor Newsom’s new 2022-2023 California Blueprint ties in with actions the Governor has taken to prevent and combat wildfires since upon assuming office, which was only a few months after California’s most destructive fire in recorded history, the 2018 Camp Fire. According to data from CAL FIRE’s Fire and Resource Assessment Program (FRAP), 12 of the largest 20 fires in California from 1932 to present have occurred since 2017. The graphic below from FRAP represents the 5-year average of acres burned on a steeply increasing curve:



The trend does not appear to heading in a positive direction - the 2021 wildfire season in California experienced an unusually early start amid an ongoing drought and historically low rainfall and reservoir levels. In January 2021 alone, 297 fires burned 1,171 acres on nonfederal land, which is almost triple the number of fires and more than 20 times the acreage of the five-year average for January. In July, more than three times as many acres had burned compared to the previous year through that date, with drought, extreme heat, and reduced snowpack contributing to the severity of the fires.

The 2021 Dixie Fire, the second largest wildfire for California’s recorded history, defied all fire suppression activities from multiple fire protection agencies, severely damaged private nonindustrial and industrial timberlands, whose companies have been in existence for over 100 years. The effects and subsequent impacts of the fire on the Dixie Fire shocked the forestry staff of these private timberland companies, who stated they, or their predecessors, had not previously witnessed or recorded that type of fire behavior and fire impact on their forestlands.

CAL FIRE’s Wildfire Resilience program has quickly responded to this devastating fire by engaging with partners in the Dixie Fire, and the Caldor Fire, in the development of an Emergency Forest Restoration Team (EFRT) for each fire. This is also a key action of California’s Wildfire and Forest Resilience Plan (Action 1.14). As described in the action, the EFRT’s are designed to *“…assist small landowners impacted by wildfires with funding and expertise to restore their properties and help prevent further damage to life, property and natural resources. This program would complement the NRCS Environmental Quality Incentives Program (EQIP) and the Emergency Forest Restoration Program (EFRP).”*

CFIP Forestry Assistance Specialists (FAS) have been working with landowners whose properties have been damaged in recent years, to provide cost-share funding for site preparation, reforestation, and follow up treatments to ensure seedling survivability.

**CFIP Management Plan Problem Statement:**

For any CFIP project to take place, as per the Public Resources Code 4799(a) (PRC §4799(a)), a management plan must first be prepared by an RPF. The Code briefly describes what must be covered in a management plan, but leaves the fine details of this plan to the discretion of the Director and the Board.

CFIP has been pro-active to the impacts that wildfires can have on forest landowners by previously creating a forest management plan for very small landowners (<50 acres) or for properties that have become substantially damaged. This plan still meets the intent of PRC §4799(a), yet reduces the amount of detail and data collection usually reserved for a California Cooperative Forest Management Plan (CCFMP). The CCFMP also meets the guidelines of the American Forest Foundation and the NRCS Environmental Quality Incentives Program. While only available for use for CFIP, this “mini-management” plan is the primary document utilized for lands that have become substantially damaged through wildfire.

The current process, while responsive to the needs of landowners meeting the criteria listed above, can still create timing issues for landowners who wish to quickly start rehabilitating and reforesting their properties. Currently, a landowner must submit all information necessary for contract approval, and then only after approval can the management plan be prepared in order for the state to compensate the landowner. This is also defined in the Public Resources Code.

The Wildfire Resilience Program has been researching the issue and believes that there are possibilities for streamlining the process where landowners meet specific criteria.

The program believes that the following proposals meets the intent of the PRC and the subsequent California Code of Regulations (CCR §1525 - §1545.9) in relationship to the necessity of a management plan:

**CFIP Emergency Management Plan Proposal:**

For those properties that have been substantially damaged by the qualifying conditions of 14 CCR §1052.1 in the California Forest Practice Rules, and have had an emergency notice, as per 14 CCR §1052 submitted and successfully operated on, with an approved Work Completion Report (CAL FIRE RM-71), CFIP proposes the following to meet the intent of a management plan, with reasoning for the proposal in parentheses in *italics*:

The Emergency Management Plan will consist of:

1. A cover letter, prepared by an RPF, briefly describing the conditions of the property, the qualifying condition of the emergency, and cover the topics described in PRC §4799(a)(1-3). The expectation is that this will be no more than 1 to 2 pages. (*PRC §4799(a)(1-3) allows for discretion on the amount of information needed to satisfy this requirement*)
2. A copy of the accepted Emergency Notice, with the entire Confidential Archaeological Letter (*this meets the requirement that the plan be prepared by an RPF, and provides mapping requirements that meet most of 14 CCR §1034(x). This will also frontload the archaeology, which will have already been approved (accepted) through the emergency notice process. CAL FIRE understands that projects will still need to meet AB 52 Noticing Requirements to Native American Tribes*)
3. A copy of the signed RM-71, work completion report, from both the landowner and CAL FIRE that denotes that the area has been successfully completed (*the expectation is that the area mapped within the emergency notice will have at least 75% of the area logged, as this would represent a disturbance level expected to be higher than the proposed rehabilitation efforts in the CFIP project*)
4. For areas where the emergency notice does not cover the entire ownership, a map that shows the entire ownership. (*PRC 4799(a) requires the “plan” to cover all forested areas within the ownership. This new proposal only requires minimal mapping for areas not within the accepted emergency notice to meet code, as this plan proposal is not intended to replace a full management or mini-management plan for areas not within the emergency notice*).
5. For areas where the emergency notice does not cover the entire ownership, the brief description under “1”, above, must contain a brief description of the remainder of the ownership and what, if any, future plans for the forested areas.
6. All other documents required for a normal CFIP contract.

This expedited process is to have a management plan that meets the PRC be approved immediately upon contract approval, with minimal additional effort from an RPF (cover letter). In fact, prior to approval of a contract, a complete CFIP package must contain a “project description”, so it is entirely possible that this would not add any additional work for an RPF already required. This shortened Emergency Management Plan will not supplant the need for a management plan in the future, for thinning, release, or other operations. This plan is intended only for immediate reforestation efforts to commence and after expiration of the contract, the plan cannot be used again in the future.

**CFIP Emergency Management Plan Proposal, CEQA Exempt Areas:**

CFIP is covered with a programmatic EIR (June 1979) and with a supplement (June 1990). This EIR does cover all CFIP projects within the scope of the EIR and has provided environmental review and documentation to avoid or lesson impacts to less than significant. However, after approval of a contract, and subsequent approval of a management plan (current process), adequate scoping and an environmental checklist must be prepared prior to approval of any ground practices. This additional process requires applicants to conduct biological scoping and preparation of a checklist with approval from the FAS, prior to conduct of ground operations.

The Wildfire Resilience Program is also requesting a two-tiered approach to CEQA requirements that would forgo additional CEQA review in specific areas, described below, to continue to lesson time constraints, while also protecting the resources of the state.

**Tier 1 -** For CFIP projects meeting the conditions of the Emergency Management Plan, listed above, and are located within a disaster stricken area in which a state of emergency has been proclaimed by the Governor by the Governor and therefore meets CEQA statute for emergency:

*§ 21060.3. EMERGENCY*

*“Emergency“ means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. “Emergency” includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.*

These areas therefore do not meet the definition of a discretionary project under CEQA Statute:

*§ 21080. DIVISION APPLICATION TO DISCRETIONARY PROJECTS; NONAPPLICATION; NEGATIVE DECLARATIONS; ENVIRONMENTAL IMPACT REPORT PREPARATION*

*(b) This division does not apply to any of the following activities:*

*(b)(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.*

And therefore meets CEQA exemption status as defined under CEQA Guidelines:

*15269. EMERGENCY PROJECTS The following emergency projects are exempt from the requirements of CEQA. (a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.*

In these areas, the emergency has occurred, salvage logging of the emergency has occurred, and CFIP is coming in on the back end of the entire process to rehabilitate and reforest the lands. The emergency notice under 14 CCR §1052 already utilizes the definitions discussed immediately above and as additionally emphasized through statute specific to forested landscapes. (PRC §4592)

**Tier 2 -** For CFIP projects meeting the conditions of the Emergency Management Plan, listed above, and are **not** located within a disaster stricken area in which a state of emergency has been proclaimed by the Governor by the Governor and therefore meets CEQA statute for emergency:

Projects located in such areas will follow the Emergency Forest Management Plan process, 1 through 6 above, and also the protocols for CEQA review, including biological scoping and checklist review by the FAS prior to ground operations occurring.

The Wildfire Resilience Program has proposed the following two-tiered system of an Emergency Management Plan to follow all applicable laws concerning CEQA, the PRC and CCR’s for CFIP, while providing opportunities for landowners who have suffered catastrophic loss of their forestlands. This will allow them to start the rehabilitation process in an expedited manner, while protecting public trust resources, continuing to have RPF involvement in the process, and meeting the state’s goals for forest health and carbon sequestration through rapid reforestation.

**CFIP Cap Rate Adjustment:**

Inflationary pressures due to various recent pandemic and international events, plus supply pressure for acquiring operators and professionals due to competition from a variety of sources, such as powerline clearing for fire prevention and maintenance, emergency clean-up operations, timber salvage and normal timber harvesting, have prompted the Wildfire Resilience Program to evaluate the need for a rate adjustment to CFIP Cap Rates, as the Department has not changed rates since July 1, 2019.

Cost-share cap rates are established for program consistency as well as to encourage landowners to develop cost-effective projects. Several practices have multiple allowable rates depending on site conditions. CFIP practices include preparation of a forest management plan, Registered Professional Forester (RPF) supervision, precommercial thinning, release, site preparation, tree planting, tree protection, pruning, follow up slash treatment, and land conservation projects.

The California Department of Industrial Relations, Office of the Director-Research Unit, updates the Consumer Price Index (CPI) for California every even-numbered month and calculates annual averages. The CPI for All Urban Consumers is a recognized index for measuring price changes. The following CPI was recorded for 2019, 2020, and 2021, at 3.0, 1.7, and 4.2, respectively. Therefore, the CFIP cost-share rates were increased by 8.9% to account for increases in prices.

CAL FIRE also compared CFIP rates against the federal Environmental Quality Incentives Program (EQIP) administered by the Natural Resources Conservation Service (NRCS). Many of the EQIP treatment practices are similar to CFIP practices. The attached table shows that each program has similar rates with one or the other being higher in most cases. For some of the practices, a direct comparison was not available, and therefore there are some discrepancies in prices.

Table 1- Comparison of CAL FIRE CFIP Proposed Cap Rates and RCS EQIP Rates

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |
| Treatment | Proposed CAL FIRE CFIP $/ac | Comparable NRCS Code | NRCS EQIP $/ac | Difference $/ac |
| Site Prep Light | 381 | 490 #7 | 302 | 79 |
| Site Prep Moderate | 545 | 490 #3 | 434 | 111 |
| Site Prep Moderate | 545 | 490 #1 | 777 | -232 |
| Site Prep Heavy | 871 | 490 #2 | 967 | -96 |
| Site Prep Heavy | 871 | 490 #8 | 1061 | -190 |
| Planting Light | 245 | N/A |   | N/A |
| Planting Moderate | 381 | 612 #7 | 331 | 50 |
| Planting Heavy | 599 | 612 #3 | 773 | -174 |
| Tree shelters | 381 | N/A | 400 | -19 |
| Thinning/Release Light | 381 | 666 #1 + 384 #3 | 516 | -135 |
| Thinning/Release Moderate | 545 | N/A |   | N/A |
| Thinning/Release Heavy | 871 | 666 #2 | 625 | 246 |
| Thinning/Release Heavy | 871 | 666 #7[[1]](#footnote-1)  | 1553 | -682 |
| Pruning 50 TPA | 218 | 660 #1 | 386 | -168 |
| Pruning 100 TPA | 381 | 660 #1 | 386 | -5 |
| Pruning 150 TPA | 490 | 660 #1 | 386 | 104 |
| Release Herbicide Light | 272 | 666 #4  | 145 | 127 |
| Release Herbicide Moderate | 436 | 666 #3 | 639 | -203 |
| Release Herbicide Heavy | 762 | 666 #3 | 639 | 123 |
| Follow-up Light | 436 | 384 #4 | 236 | 200 |
| Follow-up Moderate | 762 | N/A |   | N/A |
| Follow-up Heavy | 1089 | 384 #6 | 1029 | 60 |

As per 14 CCR § 1530.1, by April 15 each fiscal year, the Director shall submit to the Board for its review a schedule of the prevailing costs of performing the practices eligible for cost sharing payments in various regions of the state. The schedule shall apply to all cost sharing agreements signed in the next fiscal year. At any time, the Director may submit amendments in the schedule to the Board for its review; such changes shall become effective upon Board approval or 75 days after submission to the Board unless the Board acts to change such amendments.

The Wildfire Resilience Program has made this initial rate adjustment proposal to allow for immediate relief from inflationary pressures, while allowing for additional time to delve deeper into the cap rates. This will allow the program to adequately assess pressures impacting operators and professional availability, and potentially propose a future adjustment depending on the outcome of the detailed review.

The Department requests that the attached cost share rates be approved and made effective July 1, 2022.

2022 CFIP Cap Rates

# Understanding the CFIP Cap Rates

CFIP cap rates for the 2021-2022 fiscal year rates are listed on the following pages. Some general information is described below, but for more detailed instructions please refer to the CFIP User’s Guide.

Several CFIP practices have multiple allowable rates depending on site conditions. Rates requested must be justified in the Project Description portion of the application and approved by the project FAS. For guidance in determining the appropriate cap rate for your site, please refer to the CFIP User’s Guide description of that practice.

The cap rates are separated by contractor labor (page 2) versus self-labor (pages 4-6). Self-labor may be performed by the landowner, their family members, and/or direct employees, and must be explained and justified in the project description. The CFIP contract will specify either the contractor or self-labor cap for each proposed practice. Self-labor and contract labor may both be used on the same project, but not on the same practice. Changing the labor type for a practice must be approved by both the FAS administering the Grant and the Stewardship Forester prior to submitting an amendment to the contract.

If the cost of a project practice exceeds the listed maximum cap rate, the landowner must pay the difference, regardless of the cost-share cap rate chosen.

The maximum state cost-share, i.e. maximum reimbursement to the landowner, will be determined by the CAL FIRE FAS and will be either 90% or 75% of the cap rate.

The 90% cost share rate will apply to the following:

* All projects on substantially damaged timberland where wildfire, insects, disease, wind, flood, or other blight caused by an act of God occurs after January 1, 1976 and the damage reduced stocking below the requirements of the Forest Practice Act. Your Registered Professional Forester (RPF) can help you determine if your project qualifies as substantially damaged. RPF’s are licensed professionals who are familiar with all aspects of forest management, and have a working knowledge of applicable State and local regulations.
* Landowners owning 500 acres or less of forestland in California.

# Contractor Labor Cap Rates

* Full Management Plan:
	+ $5,445 plus $3 per acre for the first 160 acres, and $2.50 for each additional acre up to 1,000 acres.
	+ The cap rate for plans larger than 1,000 acres will be negotiated with the CAL FIRE FAS
* Mini Management Plan, Existing Plan Revision, Archaeology, or additional Plan Addendum: $1,906 plus $1.40 per acre.
* RPF Supervision: $163 per acre for the first 20 acres, and $82 per acre for each additional acre.
* Site Preparation:
	+ Light: $381
	+ Moderate: $545
	+ Heavy: $871
* Trees & Planting:
	+ Light: $245
	+ Moderate: $381
	+ Heavy: $599
* Tree Shelters: $381
* Pre-commercial Thinning and/or Mechanical Release:
	+ Light: $381
	+ Moderate: $545
	+ Heavy: $871
	+ Note that disposal of slash generated by the Thinning and Mechanical Release practices must meet minimum Fire Hazard Reduction Standards per Forest Practice Act, and will not be considered a follow-up practice eligible for reimbursement.
* Pruning:
	+ $218 for 50 trees pruned per acre
	+ $381 for 100 trees pruned per acre
	+ $490 for 150 trees pruned per acre
	+ Note that disposal of slash generated by the Pruning must meet minimum Fire Hazard Reduction Standards per Forest Practice Act, and will not be considered a follow-up practice eligible for reimbursement.
* Release-Other:
	+ Light: $272
	+ Moderate: $436
	+ Heavy: $762
* Follow-up:
	+ Light: $436
	+ Moderate: $762
	+ Heavy: $1,089
* Herbicide (site preparation, release, or follow-up):
	+ Light: $272
	+ Moderate: $436
	+ Heavy: $762
* Land Conservation/Wildlife/Fisheries Projects: Maximum allowable costs in this practice is variable and will depend on site condition, acreage, and the type of project. Costs will be evaluated based on rates used for the Natural Resource Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP).

# Self-Labor Cap Rates

* Full Management Plan: The Management Plan must be prepared by a RPF. RPFs developing a full plan or a Mini Plan on their own property will only be paid at the Mini Plan rate. RPFs developing full plans on their own property will be allowed to negotiate above the Mini Plan rate if negotiations are supported by cost estimates for paying employees who are working on plan development.
* Mini Management Plan, Existing Plan Revision, Archaeology, or additional Plan Addendum: $1,906 plus $1.40 per acre.
* RPF Supervision:
	+ $163 per acre for the first 20 acres, and $82 per acre for each additional acre.
	+ RPFs are not eligible for reimbursement for supervising work performed on their own property. However, if another RPF is hired to do the work of supervision then reimbursement for that cost (not to exceed actual cost or cap rate) may be allowable.
* Site Preparation:
	+ Light: $324
	+ Moderate: $463
	+ Heavy: $741
* Trees & Planting:
	+ Light: $208
	+ Moderate: $324
	+ Heavy: $509
* Tree Shelters: $324
* Pre-commercial Thinning and/or Mechanical Release:
	+ Light: $324
	+ Moderate: $463
	+ Heavy: $741
	+ Note that disposal of slash generated by the Thinning and Mechanical Release practices must meet minimum Fire Hazard Reduction Standards per Forest Practice Act, and will not be considered a follow-up practice eligible for reimbursement.
* Pruning:
	+ $185 for 50 trees pruned per acre
	+ $324 for 100 trees pruned per acre
	+ $417 for 150 trees pruned per acre
	+ Note that disposal of slash generated by the Pruning must meet minimum Fire Hazard Reduction Standards per Forest Practice Act, and will not be considered a follow-up practice eligible for reimbursement.
* Release-Other:
	+ Light: $231
	+ Moderate: $370
	+ Heavy: $648
* Follow-up:
	+ Light: $370
	+ Moderate: $648
	+ Heavy: $926
* Herbicide (site preparation, release, or follow-up):
	+ Light: $231
	+ Moderate: $370
	+ Heavy: $648
* Land Conservation/Wildlife/Fisheries Projects: Maximum allowable costs in this practice is variable and will depend on site condition, acreage, and the type of project. Costs will be evaluated based on rates used for the Natural Resource Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP).

# Participant Self-Owned Labor and Equipment Hourly Rates

The following rates are based on Natural Resource Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP) rates for California, federal fiscal year 2022, and account for the expected reduced overhead cost to the applicant. These rates may not be exceeded for landowner owned equipment, and includes fuel and maintenance but not labor. Labor for an employee, contractor, or day laborer shall be the actual wage paid and shall be verified by a signed invoice or duplicate check. The equipment and labor rates do not apply to contractors or rented equipment where actual receipts are required. Additional equipment or supplies shall be approved through the local FAS.

* Labor: $26
* Wheel mounted backhoe excavator with horsepower range of 60 to 90: $28
* Track mounted dozer with horsepower range of 60 to 90. (e.g. D3, D4): $49
* Track mounted dozer with horsepower range of 125 to 160. (e.g. D5, D6): $88
* Track mounted dozer with horsepower range of 160 to 250. (e.g. D7, D8): $184
* Track mounted hydraulic excavator with bucket capacity range of 0.3 to 0.8 cubic yards: $55
* Track mounted hydraulic excavator with bucket capacity range of 0.8 to 1.5 cubic yards: $101
* Track mounted hydraulic excavator with bucket capacity range of 1.5 to 2.5 cubic yards. $114
* Skid steer loader with horsepower range of 60 to 90: $56
* Chainsaw or gasoline powered pole chainsaw: $6
* Forestry mulcher, flail shredder, hydro axe, brush cutter, etc.: $81
* Agricultural tractor with horsepower range of less than 50: $7
* Agricultural tractor with horsepower range of 50 to 90: $20
* Agricultural tractor with horsepower range of 90 to 140: $46
* Agricultural tractor with horsepower range of 140 to 190: $64
* Dump truck for moving bulk material. Typical capacity is 12 ton or 8 cubic yards: $49
* Dump truck for moving bulk material. Typical capacity is 16 ton or 12 cubic yards: $70
* Dump truck for moving bulk material. Typical capacity is 25 ton or 18 cubic yards: $91
* Chipper, 6-inch capacity, typically 35 horsepower (includes chipper & power unit): $24
* Chipper, 12-inch capacity, typically 130 horsepower (includes chipper & power unit): $45
* Chipper, 15-inch capacity, typically 165 horsepower (includes chipper & power unit): $63
* Wheeled front end loader with horsepower range of 80 to 110: $53
* Wheeled front end loader with horsepower range of 110 to 140: $48
* Track loader, 95 horsepower: $81
* Log skidder: $111
* Feller buncher: $114
1. CFIP contracts often use a combination of Thinning/Release Heavy plus Follow-up Heavy combined for mastication operations, which results in a rate of $1960/acre [↑](#footnote-ref-1)