Board of Forestry and Fire Protection
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Gentlepersons,

I respectfully submit the following comments in response to the 2021 Regulations and Priority Review. Numbered items deal with individual code / rule sections. A more "global" set of suggestions follows those.

1. Article 5 Standardized Stocking Sampling Procedures - This section does not adequately address how stocking sampling applies to partially logged areas within a larger sale area. In dealing with this issue, we have been faced with an interpretation that the stocking procedure only apply to the "*logged area*," a term which is not defined in the FPRs. Furthering this interpretation, State staff have gone on to state that stocking procedures only apply to the area where logging actually occurred. Under this scenario if a landowner were only to log group openings in a group selection unit, there would be no way to meet stocking even though the larger (i.e. unlogged) area clearly would. Although this interpretation seems irrational, it may bear out given the way the procedures are currently described. Also, I have been made aware of scenarios where full stocking examinations have been required on areas a small as an acre. Current procedures would require placing twenty plots into one acre, which as anyone familiar with inventory practices knows would be a difficult and unreasonable process. Accordingly, the Board should make it explicit that where feasible the stocking standard shall apply to the least stocked forty in the permit area, be it logged or unlogged. Also, the Board should modify the procedures to account for small (i.e. insignificant project areas).

2. 14 CCR [913.4, 933.4, 953.4](c) – **"***The RPF shall describe in the plan specific vegetation and fuels treatment, including timing, to reduce fuels to meet the* ***objectives of the Community Fuelbreak area*** *or other objectives identified by the RPF* ***with the written concurrence of a public fire agency*** *and determined by the Director to be consistent with the purposes of the Act.*" I suggest the Board revisit the need to meet the objectives of a community fuelbreak or obtain written concurrence of a public fire agency. It is my opinion that these standards be stricken from this rule section. RPF analysis in a THP document approved by the lead agency (a public fire agency) should be enough. There is no need to make obtaining a permit for fuelbreak installation overly difficult due to these currently required consultations.

3. 14 CCR [913.4, 933.4, 953.4](e) – This rule should be modified as necessary to address restoration of aspen, meadows and wet areas in light of 14 CCR 932.7(a) – "*Rock outcroppings, meadows, wet areas, or other areas not normally bearing commercial species shall not be considered as requiring stocking and are exempt from such provisions.*" If these areas are exempt from stocking there should be no need to go to the lengths currently necessary to restore these features. In other words, the FPRs should simply require identification of these features as exempt from stocking and that is all, aside from disclosing necessary exceptions / in-lieu practices. At present the rules disincentivize restoration of these features, especially where they occur on nonindustrial ownerships where the proponent lacks the finances to pay for the analysis currently required.

4. 14 CCR [913.1, 933.1, 953.1](a) (5), and elsewhere – "*Except for the clearcut method, all trees to be harvested or all trees to be retained shall be **marked by**, or under the supervision of, an RPF prior to felling operations.*" The "*…marked by…*" portion of this code section has been strictly interpreted to mean that all trees actually have to be physically marked. This precludes RPFs directly telling LTOs which trees may be cut or retained. Wherever the "*marked by*" verbiage is found in the FPRs it should be replaced with "*designated by.*" 14 CCR 895 should then be modified to define this "*designated by*" verbiage to allow marking of trees, designation by description, designation by prescription or simply verbal guidance from the RPF to the LTO.

5. 14 CCR 895 – "*Archaeological Coverage Map means the map or maps required as part of a Confidential Archaeological Addendum or a Confidential Archaeological Letter pursuant to 14 CCR §§ 929.1 [949.1,969.1] (c)(9) and 1052(a)(10). The map(s) shall contain …. specific location of all archaeological and historical sites identified within the Site Survey Area….*" This definition should be changed to mandate only requiring mapping of significant archaeological and historical sites. Re-mapping insignificant sites is an unnecessary use of time, especially on emergencies where time is of the essence.

6. 929.1, 949.1, 969.1(a)(2) – **"***The RPF shall allow a minimum of 10 days for response to this notice before submitting the plan to the Director.*" This rule section should be changed to a five day wait at for THPs and NTMPs. Given review timelines there is no reason to wait this long on Native American responses as there is ample time to incorporate their valued information into the permit during the course of review.

7. 1032.10 - "*The letter and publication shall request a response by the property owner within ten days of the post-marked date on the letter or the date of publication as appropriate. ….The plan shall not be submitted until ten days after the above notification(s) have been done.*" These ten day waits should be changed to five day waits for NTMPs and THPs. As per above, given duration of review and timing thereof there is no reason to wait ten days for submission of a THP / NTMP. The current timelines ensure there is ample time to ensure protection of domestic waters.

8. 1052(e) – "*Timber Operations shall not continue beyond one (1) year from the date the Emergency Notice is accepted by the Director unless a plan is submitted to the Director and found to be in conformance with the Rules and regulations of the Board*" this rule should be stricken in its entirety. Emergencies do not follow the calendar and to do not subside 366 days from submission of a permit. There is no reason a landowner should have to go through the THP process if operations on substantially damaged timberland cannot be completed in a year.

Some of the above suggestions illustrate the nature of what the timber permitting has become in California (i.e. pedantic). To this point, my main suggestion is that we revisit the very root of the FPRs as a prescriptive device. It is time to move, at minimum, all non-industrial fuel reduction operations into a performance-based standard. There is no time to be this far into the weeds on code section interpretations and permit returns given the current state of our forests

Except perhaps for limited areas within the fog belt and maybe at exceptionally high elevations, fire is probably the only important driver of significant impacts to wildlife, soils, erosion, watershed values and other resources here in California. And as for climate change effects, I suggest reviewing our net carbon emission trend over the last decade or so. Registered Professional Foresters should not be stuck in the quagmire of red tape I believe a significant percentage currently find their selves in. A quagmire where, seemingly, the process has become more important than the actual product.

In starting on this shift of regulatory philosophy I suggest we take another look at the intent of the act. It's all fine and well to maximize production of high quality timber products, create and/or maintain naturally diverse mixture of trees, and recruit or retain diverse seral stages. But one may be inclined to ask, why any of that matters at the rate our forests are burning? It may also be worth wondering - if we were to lift the burden of log gluts due to recent wildfires, could our manufacturing and operational capacity actually deal with maximized production at a statewide level? Isn't it reasonable to question the very intent of the act in light of these issues? Why isn't fire resilience specifically discussed in Implementation of Act intent?

Likewise, I suspect effective change will require revisitation what defines timberland and what minimum stocking looks like in light of functional fuel reduction projects. Is one group A conifer tree in a back yard really timberland? If so, how did such a seemingly irrational standard come about? Moreover, why is it still being applied when such an interpretation may prevent or impede fuel reduction projects? And finally, in the grand scheme of things, what difference does it make? Maybe it's also time to question the wisdom of maintaining or creating unevenaged stands on small ownerships operating under NTMPs as these uneven aged stands more or less equate to maintenance of fuel ladders. It may also be worthwhile to officially recognize the possible benefits of returning some areas to pre-contact conditions, which in many cases those stocking levels would require an EIR and TCP to achieve under current regulations.

I recognize some of the previous suggestions may require an act of the legislature but seems to me that some of this can be accomplished via official Board interpretation. These times seen to necessitate radical and rapid changes to the FPRs. Neither regulatory burden nor bureaucratic inefficiency should present an obstacle to the pace and scale of fuel reduction currently needed.

Thank you for your consideration.

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