

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.bof.fire.ca.gov
(916) 653-8007

**Amendments of PRC § 4597 (Working Forest Management Plan) Pursuant to SB 901****Workshop – December 13, 2018****Legislative Council's Digest**

The act authorizes a person who intends to become a working forest landowner or a nonindustrial tree farmer, as defined, to file a working forest management plan or a nonindustrial timber management plan, as the case may be, with the department, with the long-term objective of an uneven aged timber stand and sustained yield through the implementation of the plan. Existing law defines "nonindustrial timber management plan" to mean a management plan for nonindustrial timberlands, as provided. The bill would remove from working forest management plans a required description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations.

This bill would provide that a nonindustrial timber management plan may include multiple tree farmers, but shall not cover more than 2,500 acres. The bill would require that working forest landowners comply with all applicable regulatory requirements of the state water board and the appropriate regional water quality control board. The bill would revise the definition of a "working forest landowner" to reduce the acreage that may be the subject of an approved working forest management plan, from less than 15,000 acres, to less than 10,000 acres, would authorize a plan to include multiple working forest landowners, and require that a plan be contained within a single hydrologic area, as specified.

The people of the State of California do enact as follows:**SEC. 18.**

Section 4597 of the Public Resources Code is amended to read:

4597.

(a) The Legislature finds and declares all of the following:

(1) The nonindustrial timber management plan established pursuant to Article 7.5 (commencing with Section 4593) has been successful in meeting the intent of this chapter by encouraging prudent and responsible forest management and discouraging accelerated timberland conversion by private nonindustrial forest landowners.

(2) There have been ~~763~~ *more than 850* nonindustrial timber management plans approved by the department covering a combined area of ~~315,000~~ *more than 360,000* acres.

(3) Building upon the model provided by the nonindustrial timber management plan, it is the policy of the state to encourage long-term planning, increased productivity of timberland, and the conservation of open space on a greater number of nonindustrial working forest ownerships and acreages.

(4) It is the policy of the state to encourage prudent and responsible forest resource management of nonindustrial timberlands by approving working forest management plans in advance and authorizing working forest timber harvest notices to be filed ministerially.

(5) To ensure long-term benefits such as added carbon sequestration, local and regional employment and economic activity, sustainable production of timber and other forest products, aesthetics, and the maintenance of ecosystem processes and services, the working forest management plan shall comply with rigorous timber inventory standards that are subject to periodic review and verification.

(b) This article shall be implemented in a manner that complies with the applicable provisions of this chapter and other laws, including, but not limited to, the Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Division 1 of Title 5 of the Government Code), the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the Porter Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of the Fish and Game Code). *Working forest landowners, as defined in Section 4597.1, shall comply with all applicable regulatory requirements of the State Water Resources Control Board and the appropriate regional water quality control board.*

SEC. 19.

Section 4597.1 of the Public Resources Code is amended to read:

4597.1.

Notwithstanding Section 4521, unless the context otherwise requires, the following definitions govern construction of this article:

(a) "Long-term sustained yield" means the average annual growth sustainable by the inventory predicted at the end of a 100-year planning horizon, or a shorter planning horizon if the forest encompassed by the working forest management plan has reached a balance between growth and yield.

(b) "Major stand type" means a stand that occupies an area equal to or greater than 25 percent of a working forest management plan.

(c) "Management unit" means a geographically identifiable area delineated for silviculture or management purposes. A management unit is intended to reflect an area scheduled for harvest under the plan in any given year, but may also be designated to address specific resource sensitivities.

(d) "Stand" means a geographically identifiable group of trees sufficiently uniform in age-class distribution, composition, and structure and growing on a site of sufficiently uniform quality to be a distinguishable unit.

(e) "Strata" means a grouping of similar stands defined for silvicultural or management purposes, usually according to similarities in stand composition, structure, and age.

(f) "Sustained yield" means the yield of commercial wood that an area of commercial timberland can produce continuously at a given intensity of management consistent with required environmental protection and that is professionally planned to achieve over time a balance between growth and removal. Sustained yield management implies continuous production planned so as to achieve, at the earliest practical time, a balance between growth and harvest.

(g) "Uneven aged management" means forest management with the goal of establishing a well-stocked stand of various age classes, which permits the periodic harvest of individual or small groups of trees to achieve sustained yield objectives of the working forest management plan, and provide for regeneration of trees and maintenance of age class structure.

(h) "Working forest harvest notice" means notice of timber harvest operations, pursuant to an approved working forest management plan, which meets the requirements of Section 4597.11.

(i) “Working forest landowner” means an owner of timberland with less than ~~15,000~~ 10,000 acres who has an approved working forest management plan and is not primarily engaged in the manufacture of forest products.

(j) “Working forest management plan” means a management plan for working forest timberlands, with objectives of maintaining, restoring, or creating uneven aged managed timber stand conditions, achieving sustained yield, and promoting forestland stewardship that protects watersheds, fisheries and wildlife habitats, and other important values. *A working forest management plan may include multiple working forest landowners, but shall cover no more than 10,000 acres of timberland. The harvest area, as defined in Section 895.1 of Title 14 of the California Code of Regulations, of a working forest management plan must be contained within a single hydrologic area as defined by State Water Resources Control Board’s CalWater 2.2.*

(k) “Working forest timberlands” means timberland owned by a working forest landowner.

SEC. 20.

Section 4597.2 of the Public Resources Code is amended to read:

4597.2.

A working forest management plan may be submitted to the department in writing by a person who intends to become a working forest landowner with the long-term objective of an uneven aged timber stand and sustained yield through the implementation of a working forest management plan. The management plan shall be prepared by a registered professional forester. It shall be public record and shall include all of the following information:

(a) The name and address of the timberland owner.

(b) A description of the land on which the plan is proposed to be implemented, including a United States Geological Survey quadrangle map or equivalent indicating the location of all streams, the location of all proposed and existing logging truck roads, and the boundaries of all site I classification timberlands to be stocked in accordance with subdivision (b) of Section 4561 and any other site classifications if the board establishes specific minimum stocking standards for other site classifications.

(c) A description by the registered professional forester of the inventory design and timber stand stratification criteria that demonstrates that the inventory supporting the growth and yield calculations used to determine long-term sustained yield for the working forest management plans meets the following minimum standards:

(1) For major stand or strata, the inventory estimate shall be within 15 percent of the mean at one standard error.

(2) For stand or strata that make up greater than 10 percent and less than 25 percent of the working forest management plan area, the estimate shall be no greater than 25 percent of the mean at one standard error.

(3) Inventory estimates and growth and yield shall be projected for the purposes of determining long-term sustained yield and volumes available for harvest by stand or strata and aggregated for the area covered by the working forest management plan to develop the long-term sustained yield estimate. Long-term sustained yield estimates shall reasonably reflect constraints applicable to the working forest timberlands on forest management activities.

~~(d) A description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations. This shall include disclosure of active erosion sites from roads, skid trails, crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state in an amount deleterious to the beneficial uses of water, an erosion control implementation plan, and a schedule to implement erosion controls that prioritizes major sources of erosion. This subdivision shall not apply to the extent that the~~

~~registered professional forester provides documentation to the department that the working forest management plan is in compliance with similar requirements of other applicable provisions of law. All necessary information shall demonstrate compliance with Article 12 (commencing with Section 923) of Subchapter 4 of, Article 11 (commencing with Section 943) of Subchapter 5 of, and Article 12 (commencing with Section 963) of Subchapter 6 of, Division 1.5 of Title 14 of the California Code of Regulations.~~

(e) Special provisions to protect unique areas, if any, within the boundaries of the proposed working forest management plan.

(f) A description of the property and planned activities including acres and projected growth, existing stand types, major stand types or strata, its current projected growth by strata, silvicultural applications to be applied to strata to achieve long-term sustained yield, projected timber volumes and tree sizes to be available for harvest, and projected frequencies of harvest.

(g) (1) A description of late succession forest stands in the plan area and how the total acreage of this type of habitat will be maintained across the plan area under a constraint of no net loss. Nothing in this requirement shall be interpreted to preclude active management on any given acre of an approved plan if the management is conducted in a manner that maintains or enhances the overall acreage of late succession forest stands that existed in the plan area upon initial plan approval. An exception to the no net loss constraint may be granted in the event of a catastrophic loss due to emergency factors such as wildfire, insect, and disease activity. The description shall include the following:

(A) Retention measures for existing biological legacies such as snags, trees with cavities or basal hollows, and down logs, and address how those legacies shall be managed over time appropriate with the forest type, climate, and landowner's forest fire fuels and wildlife management objectives.

(B) Hardwood tree species and how they will be managed over time.

(2) Late succession forest stand types or strata shall be mapped.

(3) Notwithstanding the definition of late succession forest stands in Section 895.1 of Title 14 of the California Code of Regulations, and for the sole purpose of this article, "late succession forest stands" means stands of dominant and predominant trees that meet the criteria of the California Wildlife Habitat Relationships System class 5D, 5M, or 6 with an open, moderate, or dense canopy closure classification, often with multiple canopy layers, and are at least 10 acres in size. Functional characteristics of late succession forest stands include large decadent trees, snags, and large down logs.

(h) Disclosure of state or federally listed threatened, candidate, endangered, or rare plant or animal species located within the biological assessment area, their status and habitats, take avoidance methodologies, enforceable protection measures for species and habitats, and how forest management will maintain these over time.

(i) (1) A description of the following for each management unit:

(A) Acres by stand or strata and estimated growth and yield for each planned harvest entry covering the period of time the long-term sustained yield plan establishes as necessary to meet growth and yield objectives. The growth and yield estimates may be based on weighted average of yield for the stand types or strata within the area included in the management unit.

(B) Yarding methods to be used.

(C) Management units shall be mapped.

(2) (A) For long-term sustained yield projections, pursuant to subdivision (c), that project a reduction in quadratic mean diameter of trees greater than 12 inches in diameter or a reduced level of inventory for a major stand type or for a stand or strata that make up greater than 10

percent and less than 25 percent of the working forest management plan area, an assessment shall be included that does all of the following:

(i) Addresses candidate, threatened, endangered, and sensitive species, and other fish and wildlife species that timber operations could adversely impact by potential changes to habitat.

(ii) Addresses species habitat needs utilizing the “WHR system” described in “A Guide to Wildlife Habitats in California,” California Department of Fish and Wildlife, 1988, or comparable typing system.

(iii) Addresses constraints to timber management, the impact of the availability and distribution of habitats on the ownership and within the cumulative impacts assessment area identified in the plan in relation to the harvest schedule, and the impacts of the planned management activities utilizing the existing habitat as the baseline for comparison.

(iv) Discusses and includes feasible measures planned to avoid or mitigate potentially significant adverse impacts on fish or wildlife, which can include, but is not limited to, recruitment or retention of large down logs greater than 16 inches in diameter and 20 feet in length, retention of trees with structural features such as basal hollows, cavities, large limbs, or broken tops, retention of hardwoods, and retention or recruitment of snags greater than 24 inches in diameter and 16 feet in height.

(j) A certification by the registered professional forester preparing the plan that the forester or a designee has personally inspected the plan area.

(k) A certification by the registered professional forester preparing the plan that the forester or a designee has clearly explained to the working forest landowner that the plan is a long-term commitment that may require ongoing investments, including inventory sampling and road maintenance, for the purpose of managing the plan.

(l) Any other information the board requires by regulation to meet its rules and the standards of this chapter.

SEC. 21.

Section 4597.6 of the Public Resources Code is amended to read:

4597.6.

(a) The department shall provide a time period for public comment, starting from the date of the receipt of a working forest management plan, as follows:

(1) Ninety days for a working forest management plan for less than 5,000 acres.

(2) One hundred ten days for a working forest management plan for between 5,000 and 9,999 10,000 acres.

~~(3) One hundred thirty days for a working forest management plan for between 10,000 and 14,999 acres.~~

(b) Before a working forest management plan may be approved, all of the following requirements shall be met:

(1) Within 30 working days of the receipt of a working forest management plan, or within 40 working days of the receipt of a plan to which a road management plan is appended, the department shall determine if the plan is accurate, complete, and in proper order, and if so, the plan shall be filed. An unfiled plan shall be returned to the applicant with an explanation that includes provisions for resubmitting the plan.

(2) The initial inspection shall be initiated within 20 working days from the date of filing of the working forest management plan, and completed no more than 30 working days from the date of filing.

(3) Upon completion of the initial inspection, the department shall have up to 45 working days to conduct the final interagency review of the plan.

(4) The public comment period shall end 20 working days after the completion of the final interagency review of the plan or until the requirement in subdivision (a) is met, whichever is greater.

(5) After the final interagency review and public comment period has ended, the department shall have up to 30 working days to review the public input, to consider recommendations and mitigation measures of other agencies, to respond in writing to the issues raised, and to determine if the plan is in conformance with the applicable rules adopted by the board and other applicable provisions of law.

(c) If after final interagency review the director determines that the plan is not in conformance with the rules and regulations of the board or this chapter, the director shall deny and return the plan, stating the reasons for the denial and advising the person submitting the plan of the person's right to a hearing before the board.

(d) If the director does not act within the time periods provided in paragraphs (1) through (5) in subdivision (b), the director and the working forest landowner submitting the working forest management plan shall negotiate and mutually agree upon a longer period for the director to review the plan. If a longer period cannot be mutually agreed upon, the working forest management plan shall be deemed denied and returned to the working forest landowner submitting the plan.

(e) (1) A working forest landowner to whom a plan is denied pursuant to subdivision (c) or (d) may request, within 30 working days from the receipt of the plan, a public hearing before the board. The board shall schedule a public hearing to review the plan to determine if the plan is in conformance with the rules and regulations of the board and this chapter.

(2) Board action shall take place within 30 working days from the filing of the appeal, or a longer period mutually agreed upon by the board and the person filing the appeal.

(3) If the director's decision to deny the plan is overturned by the board, the board shall prepare findings and its rationale for overturning the decision, and return the plan to the department for approval by the director.

(4) If the plan is not approved on appeal to the board, the director, within 10 working days of board action, shall advise the plan submitter regarding changes needed that would achieve compliance with this chapter and other applicable provisions of the law. The plan submitter shall have 45 working days from the date of the notification letter, or longer, if mutually agreeable to the department and the plan submitter to revise the plan to bring it into full conformance with the rules and regulations of the board and this chapter. Upon receipt of the information requested of the plan submitter, the department shall recirculate the plan and reopen the public comment period for 30 working days. Prior to determining whether to approve the proposed revised plan, the director shall have 30 working days to review public input and consider recommendations and mitigation measures of other agencies, and to respond in writing to issues raised.

SEC. 22.

Section 4597.20 of the Public Resources Code is repealed.

4597.20.

~~The board shall adopt the regulations needed to implement this article by January 1, 2016.~~