



STAFF BRIEFING PAPER

Forest Practice Committee Agenda Item #2:

“Draft Modified THP Acreage Increase Proposal”

Board Staff was directed at the September Forest Practice Committee Meeting to review and report on the history of the existing Modified Timber Harvesting Plan (MTHP) regulations. In addition, staff was directed to seek information on the estimated number of private timberland ownerships the current draft regulation could affect statewide.

Existing Regulation Review

Staff consulted the Board’s findings contained in the 1993 rulemaking file (refer to attached excerpt). Among other things, the findings discuss the various mitigation measures and prohibitions contained in the regulations. The Board concluded based upon these protective provisions that an MTHP’s potential for adverse impacts was low or unlikely to occur. Cumulative effects were made less likely by the control of potential project-level effects. The provision for the “fair argument standard” in which the RPF is compelled to complete all or a portion of a cumulative impact assessment is also clarified in the findings. Lastly, the findings note the importance of the plan review process, including the possibility of a pre-harvest inspection and further site-specific mitigations.

How the Board arrived at the 100 acre maximum ownership size is not as clear. This provision may well have been the result of demographics information, harvesting plan costs during that time period as is mentioned in the findings, and/or discussions in committee. Regardless of origin, it seems clear that the Board intended the project size and operational limitations to work in tandem to ensure that the potential for adverse effects was minimized to insignificance.

Acreage Information

Information on ownership sizes across the state can be found on the *CAL FIRE* FRAP website. However, this information is at too coarse a scale for utility in this instance. RPF Jared Gerstein’s 2009 analysis and report to the North Coast Regional Land Trust entitled, Effects of Timberland Parcelization and Regulatory Restriction on Annual Harvest Volumes Humboldt County, California (refer to attached executive summary) is a great resource for ownership size in Humboldt County. Mr. Gerstein has indicated in correspondence with Committee Chair Andre that the methods used to produce the ownership size information for Humboldt County could be replicated for any county in the state. It is not clear to staff that this information would be useful to review and consideration of the current draft MTHP acreage increase proposal.

The modest acreage maximum increase proposed in the draft regulation and current lack of MTHP use across the state would seem to suggest that statewide ownership size information would be of limited utility. As Mr. Gerstein noted, ownership size and annual harvest activity are correlated. While owners of less than 160 acres of timberland in Humboldt County make up a significant amount of acreage, annual harvesting on those small ownerships is very low with a minimum of plan submissions. Assistant Deputy Director Shintaku likewise observed at the September FPC meeting that annual MTHP submissions are very low. He further estimated that MTHP submissions would not likely be significantly elevated by the modest acreage increase proposed in the regulation.

Recommendations

- The Committee could consider recommending full Board authorization for a 45-day Notice of Rulemaking to solicit public comment. This may be the most efficient option for gauging the interest level of those landowners for whom the draft rulemaking proposal is intended. Public comment would likewise be useful for evaluation of the proposal's current elements.
- The Committee could consider conducting a review of the existing mitigations and prohibitions contained in the MTHP regulations, 14 CCR 1051, *et seq.* The purpose of this review would be to determine if the existing protections and prohibitions in the regulations are adequate or require further modification for the purposes of the draft rule proposal.
- The Committee could consider explicit or implicit direction to the Department to monitor prospective rule implementation and use by small landowners. Should the regulation be adopted, the Department would already be obligated to provide the Board with an annual review of the rule's implementation. However, the Committee may wish to provide rule language to this effect.

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