

CONCURRENCE IN SENATE AMENDMENTS

AB 904 (Chesbro)

As Amended September 3, 2013

Majority vote

ASSEMBLY: 71-2 (May 29, 2013) SENATE: 35-1 (September 6, 2013)

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Original Committee Reference: NAT. RES.

SUMMARY: Creates the Working Forest Management Plan (WFMP) program, which is a long-term forest management plan for nonindustrial landowners with less than 15,000 acres of timberlands if the landowner commits to uneven aged management and sustained yield.

The Senate amendments:

- 1) Clarify that the WFMP is to be implemented in a manner that complies with the applicable provisions of various laws, including the Forest Practice Act, the California Environmental Quality Act (CEQA), the Porter Cologne Water Quality Control Act, and the California Endangered Species Act.
- 2) Establish minimum standards for the WFMP sustained yield requirements.
- 3) Specify that the erosion control plan required for a WFMP must disclose 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. Require a schedule to implement erosion controls that prioritizes major sources of erosion.
- 4) Require a WFMP to maintain late succession forest stands in the plan area under a constraint of no net loss. Define "late succession forest stands" as 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. Explain that functional characteristics of late succession forest stands include large decadent trees, snags, and large down logs.
- 5) Require a WFMP to disclose 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.
- 6) Require a WFMP to include a description of the 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 of the plan. Require a description of yarding methods to be used and mapping of the management units.
- 7) Require mitigation measures, as specified, for long-term sustained yield projections 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% and less than 25% of a WFMP.

- 8) Require the registered professional forester preparing a WFMP to certify 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.
- 9) Require plans and notices to be posted to Department of Forestry and Fire Protection's (CALFIRE) Internet Web site.
- 10) Extend the review times, both for the public and the agencies, for various stages of the WFMP review process.
- 11) Require a working forest harvest notice to comply with the following:
  - a) Documented occurrences obtained from a review of public and readily available sources of species state or federally listed as threatened, endangered, candidate, or rare within the biological assessment area and outside the area identified in the working forest harvest notice not addressed in the approved WFMP shall be submitted to CALFIRE as a minor deviation concurrently with the filing of a working forest harvest notice.
  - b) Occurrences of species that are state or federally listed as threatened, endangered, candidate, or rare discovered inside the area identified in the working forest harvest notice not addressed in the approved WFMP shall be submitted to CALFIRE as an amendment to the plan prior to filing a working forest harvest notice. The amendment shall contain take avoidance and mitigation measures if no such information is currently contained within the approved plan.
- 12) Require a working forest harvest notice to include an update on erosion control mitigation measures for the harvest area and any appurtenant roads if conditions have changed since the WFMP was approved and a certification from the registered professional forester that no additional listings of water bodies to the Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313(d)) list have occurred on the lands of the plan.
- 13) Require, for an approved WFMP, CALFIRE to convene a meeting with the interdisciplinary review team every five years to verify that operations have been conducted in accordance with the plan and applicable laws and regulations. Allow CALFIRE to have a field inspection conducted if at the five year review meeting, a member of the review team determines that a field inspection is necessary. Require CALFIRE to develop a plan summary before each five-year review that allows the review team to analyze information including, but not limited to, the number of notices of timber operations, the acreage operated under each notice, the violations received, and the volume harvested in relation to projections of harvest in the plan. Require CALFIRE to provide the public, in writing or on its Internet Web site, notice of each five-year review and a copy of the plan summary. Allow the public to submit to the review team additional information relevant to the purpose of the five-year review and the review team may consider this information when conducting its review. Do not authorize the public disclosure of proprietary information without first obtaining the landowner's consent.

- 14) Authorize a participating landowner, in conjunction with the preparation of an application for a WFMP, to also seek approval of a safe harbor agreement from the Department of Fish and Wildlife.
- 15) Delete the WFMP program designed for landowners with less than 160 or 320 acres depending on location.
- 16) Exclude the Southern Subdistrict of the Coast Forest District, as defined in Section 845.1 of Title 14 of the California Code of Regulations, from the WFMP program.

EXISTING LAW: Pursuant to the Z'Berg-Nejedly Forest Practice Act (Forest Practice Act):

- 1) Authorizes a nonindustrial tree farmer (an owner of timberland with less than 2,500 acres) with the long-term objective of an uneven aged timber stand and sustained yield to file a Nonindustrial Timber Management Plan (NTMP) with CALFIRE. An NTMP shall be prepared by a registered professional forester and is considered to be the functional equivalent of an Environmental Impact Report (EIR) for the purposes of the California Environmental Quality Act.
- 2) Requires a nonindustrial tree farmer with an NTMP to file a nonindustrial timber harvest notice with CALFIRE when he or she plans to harvest timber. The notice shall be effective for a maximum of one year and include information that indicates whether the harvesting complies with the Forest Practice Act and Forest Practice Rules and conforms to the approved NTMP.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) One-time costs of at least \$150,000 from the Timber Regulation and Forest Restoration Fund to the Board of Forestry for the development of regulations as required by this bill.
- 2) One-time costs of approximately \$75,000 from the Timber Regulation and Forest Restoration Fund to the regional water quality control boards (RWQCBs) for adoption and revision of general waste discharge requirements.
- 3) Assuming five WFMPs are submitted each year, annual costs of approximately \$500,000 - \$750,000 in fiscal year (FY) 2014-15 and growing to \$600,000 to \$950,000 in FY 2018-19, from the Timber Regulation and Forest Restoration Fund to CALFIRE, Department of Fish and Wildlife, the RWQCBs, and Department of Conservation for the approval, then ongoing review, of WFMPs. This cost will at least be partially offset by a decrease in timber harvest plans (THP) submitted.

COMMENTS: The NTMP (which is what the WFMP is modeled off of) was created by the Legislature in 1989 to allow landowners with less than 2,500 acres to apply for a timber harvesting document that allows for long-term approval if the landowner commits to uneven aged management and sustained yield. Through an NTMP, a nonindustrial timberland owner first prepares a management plan that is subject to a multi-agency review process and acts as the functional equivalent of an EIR under CEQA. The cost of preparing this management plan is about 25% to 50% more than a typical THP, much of which comes from the required sustained yield analysis. However, unlike a THP, which is good for no more than seven years, an NTMP

lasts in perpetuity and the additional cost is recaptured over time because subsequent NTMP harvest entries can be conducted under a much simpler notice to CALFIRE that is tiered off of the NTMP.

By relieving these landowners of some of the costs and burdens of meeting the regulatory requirements designed for industrial timber companies, NTMPs help keep ranches and other non-industrial forest properties economically viable and make them less likely to be subdivided for housing or converted into golf courses or vineyards. By prohibiting large clear-cuts and requiring a long-term, conservation approach to logging, NTMPs help preserve scenic values, protect water quality, and preserve habitat for fish and wildlife.

Today, NTMPs cover over 300,000 acres of California forests. Raising the acreage limit to 15,000 acres through the WFMP will make hundreds of thousands of additional timberland acreage eligible for long-term, sustainable management. A preliminary review of timberland ownership shows that there are at least 81 landowners who would qualify under the new WFMP program. Of these 81, at least 60 used even aged management (i.e., clear cutting) at some point. These landowners would have an incentive to commit to long-term uneven aged management under the WFMP.

Additionally, NTMP landowners who are close to the NTMP's 2,500 acreage limit will have an incentive to purchase additional timberlands by transferring to the WFMP. Some NTMP landowners near the 2,500 acre limit have already indicated that they plan to acquire more timberlands if the WFMP program is enacted.

Benefits to the State. In 2003, CALFIRE issued a report on the NTMP program. The report explained that the NTMP program provides significant benefits to the state in terms of regulatory cost savings and societal and economic benefits.

The report states that "[a]lthough more time may be invested by the agencies in the up-front review of the NTMP, this is soon offset by not having to process individual THPs each time the property is entered. The inspections and enforcement of timber operations do not differ however, and are triggered each time a Notice of Operation is filed."

As for societal benefits, the report states that "[r]etaining our non-industrial private forest lands in forest use provides tremendous...benefits, including retention of open space, protection of watersheds, water quality and forest soils, maintenance of diverse habitat for fish and wildlife, preservation of important cultural and historical sites, and promotion of recreational opportunities."

The "[e]conomic benefits include wood products from sustainable sources, income for timber owners, and jobs for employees and contractors working to harvest, transport, and process forest products. Sales by local businesses of equipment used for the management of forest lands; and the profits of manufacturers, wholesalers, and retailers of forest products – which are then converted into houses, commercial buildings and consumer products – generate much additional economic activity."

"These benefits are all enhanced by the commitment of forest landowners to the long term stewardship and sustainable production requirements of a NTMP. On the broad statewide scale, the overarching public benefit is in encouraging owners of these small wooded parcels to take

advantage of their rich forest soils, to enrich and improve their timber stands, to manage them sustainably into the future, and cumulatively retain that part of the state's rural, working landscape that characterizes California's private timberlands."

The 2003 report concluded that "the NTMP program is meeting the uneven-aged management requirement of the Forest Practice Act...[and given] sufficient time to implement current NTMP management prescriptions, landowners will also be able to show that they are meeting the sustained yield requirement. Therefore, [CALFIRE] has determined that the NTMP program is improving California's timberlands and recommends that the program be continued."

Additionally, the report recommended that the NTMP acreage limit be increased to bring more timberlands into the program. "This change would benefit both landowners and the state by providing an opportunity for these additional timberlands to be placed into a sustained yield and uneven-aged management regime." This bill essentially implements this recommendation by allowing larger nonindustrial timberland owners to participate in the WFMP program.

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