

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.fire.ca.gov
(916) 653-7772



To: Registered Professional Foresters
and other Interested Parties

Date: August 2, 2004

R6

Telephone: (916) 653-9422

Website: www.fire.ca.gov


From: William E. Snyder, Deputy Director
Resource Management
Department of Forestry and Fire Protection

Subject: Supplemental Instructions For Completing The Timber Harvesting Plan (THP)
Form

- (1) rationale for cumulative impacts assessment areas;
- (2) identification of reasonably foreseeable probable future timber harvests on land controlled by timber harvesting plan submitter.

These supplemental instructions for Section IV ("Cumulative Impacts Assessment") of the Timber Harvesting Plan (THP) form are being provided to Registered Professional Foresters (RPF) and other interested parties. If you have any questions about these instructions, please contact Dennis Hall at (916) 653-5305.

An important part of every THP is Section IV, entitled "Cumulative Impacts Assessment." The cumulative impacts assessment assists the California Department of Forestry and Fire Protection (CDF) and other agencies to determine whether the project will have significant cumulative impacts and, if so, whether there are feasible mitigation measures to address these impacts. The cumulative impacts assessment also serves the public information goals of California Environmental Quality Act (CEQA).

Instructions for completing THPs, including the cumulative impacts assessment, are available on CDF's website at www.fire.ca.gov/ResourceManagement/ForestPractice.asp. This document supplements the instructions to address, in greater detail, two topics related to the cumulative impacts assessment: (1) the obligation to provide a rationale for each cumulative impacts assessment area; and (2) the obligation to identify future timber harvests on land controlled by the timber harvesting plan submitter ("plan submitter"), as

part of the larger obligation to disclose all reasonably foreseeable probable future projects. These instructions are limited to these specific topics and are not intended to be an exhaustive discussion of all requirements relating to disclosure and analysis of cumulative impacts.

Obligation to Provide Rationale for Cumulative Impacts Assessment Areas

Issue:

The regulations require RPFs to explain in the THP the rationale for all cumulative impacts assessment areas employed in the cumulative impacts assessment. RPFs often adopt the single CalWater planning watershed in which the proposed THP is located as the appropriate cumulative impact assessment area for one or more potential impacts. RPFs do not, however, always adequately explain why the CalWater planning watershed is the appropriate assessment area for the relevant cumulative impacts. While the rationale for the cumulative impacts assessment area may be apparent to the RPF and to CDF, it is important that the RPF briefly explain the rationale in the THP.

Supplemental Instructions:

“Cumulative impacts’ refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (14 CCR § 15355(a); see 14 CCR § 895.1 (definition of “effects”); 14 CCR § 15358.) “The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” (14 CCR § 15355(b); see also 14 CCR § 898.)

Pursuant to the Appendix to 14 CCR §§ 912.9, 932.9 and 952.9, entitled “Technical Rule Addendum #2,” in evaluating a THP’s cumulative impacts, the RPF must consider: watershed resources; soil productivity; biological resources; recreational resources; visual resources; and vehicular traffic. Technical Rule Addendum #2 provides specific guidance for determining the appropriate cumulative assessment area for impacts to recreational and visual resources, but for all other potential impacts, the RPF must evaluate what cumulative assessment area is appropriate under the particular circumstances of the THP.

The justification and explanation for the size and boundaries of each cumulative impacts assessment area is its “rationale.” As stated in Technical Rule Addendum #2:

The RPF shall establish and briefly describe the geographic assessment area within or surrounding the plan for each resource subject to be assessed and shall briefly explain the rationale for establishing the resource area. (*Id.* (emphasis added).)

Accordingly, the RPF must in the THP explain the rationale for the cumulative assessment area for each category of potential impact. (Id.; see also 14 CCR § 897(b)(3) (re duty to “provide the Director with information about the plan and the resource areas and the nature and purpose of the operations proposed which is sufficiently clear and detailed to permit the Director to exercise the discretion and make the determinations required . . .”).)

In determining the appropriate cumulative assessment areas for impacts to the relevant resources, the RPF must consult the sources of information and consider the factors set forth in Technical Rule Addendum #2. The rationale for each cumulative impacts assessment area should address why the selected area is reasonable, based on the project’s potential incremental effects and their potential to combine with the effects of other closely related past, present and reasonably foreseeable probable future projects. The ultimate decision whether a cumulative impact assessment area is the appropriate assessment area for a given potential impact will be made by CDF based on the available evidence.

In the specific context of cumulative impacts to watershed resources, plan submitters generally must use “planning watersheds.” (see 14 CCR § 895.1 (definition of “planning watershed”).) One source of planning watershed information is CalWater, a spatial dataset of California watersheds developed by the Interagency Watershed Mapping Committee. (see www.ca.nrcs.usda.gov/features/calwater.) CDF recognizes that, as a practical matter, the CalWater planning watershed in which the THP is located will often be the most appropriate cumulative impacts assessment area for impacts to watershed resources. Notwithstanding this fact, the RPF must in every case explain the rationale for the chosen cumulative watershed impacts assessment area. The rationale should address why the selected cumulative watershed assessment area is reasonable, based on the THP’s potential incremental watershed-related effects and their potential to combine with the watershed-related effects of other closely related past, present and reasonably foreseeable probable future projects. (see 14 CCR § 898.)

The ultimate decision whether a CalWater planning watershed, a different planning watershed, or a subdivision of a planning watershed is the appropriate assessment area for cumulative watershed impacts will be made by CDF based on the available evidence. Where the plan submitter or RPF believes that the CalWater planning watershed may not be the appropriate assessment area for cumulative watershed impacts, for reasons of efficiency, the plan submitter or RPF is encouraged to discuss the matter with CDF in advance of submitting the THP.

Obligation to Identify All Reasonably Foreseeable Probable Future Projects

Issue:

As part of the required cumulative impacts assessment, CEQA and the Forest Practice Rules require disclosure of relevant past, present and reasonably foreseeable probable future projects. As part of this obligation, THPs must disclose relevant past,

present and reasonably foreseeable probable future timber harvests on land that is "controlled" by the plan submitter. While THPs submitted to CDF generally include a comprehensive list of relevant past and present timber harvests, often there is no disclosure of relevant future timber harvests, or the disclosure is very general. It is important that THPs submitted to CDF disclose all relevant timber harvests that are reasonably foreseeable at the time the THP is submitted, even if the details of the future timber harvests are not fully known and even if the future timber harvests might never actually take place.

Supplemental Instructions:

As part of the cumulative impacts analysis, THPs must "[i]dentify and briefly describe the location of past and reasonably foreseeable probable future projects as defined in 14 CCR § 895.1 within described resource assessment areas." (Technical Rule Addendum #2.) Under 14 CCR § 895.1, "reasonably foreseeable probable future projects" are "projects with activities that may add or lessen impact(s) of the proposed THP[.]" Reasonably foreseeable probable future projects include, but are not limited to, any future "THP on land which is controlled by the THP submitter" if at the time the THP at issue is submitted, the future THP "is currently expected to commence within, but not limited to, 5 years" (14 CCR § 895.1 (definition of "reasonably foreseeable probable future projects"); see also *id.* (definition of "project").)

As set forth in Technical Rule Addendum #2, a RPF "shall conduct an assessment" of cumulative impacts "based on information that is reasonably available before the submission of the THP." Where the plan submitter "controls" land, reasonably available information concerning future timber harvests includes, but is not limited to, internal planning documents and Geographic Information Systems (GIS) data. As reflected in the language of the regulations, CDF expects that, in general, such reasonably available information will allow plan submitters that control land to predict their future timber harvesting for at least the next five years. (see 14 CCR § 895.1 (definition of "reasonably foreseeable probable future projects").) The five-year period noted in 14 CCR § 895.1 does not, however, limit a plan submitter's obligation to disclose reasonably foreseeable probable future timber harvests where planning has been done for a longer period. If at the time a THP is submitted, future timber harvesting is "expected to commence," and the future timber harvesting "may add to or lessen impact(s) of the proposed THP[.]" it must be disclosed in the THP, even if it is not expected to commence within five years. Future timber harvesting may be "expected to commence" at the time a THP is submitted to CDF, even though a THP for the future timber harvesting has not yet been submitted to CDF, even though many of the details of the future timber harvesting are not yet known, and even though the future timber harvesting may never occur due to the failure of contingencies or unexpected events.

The plan submitter and RPF must disclose future timber harvests to the level of detail known at the time of THP submission. In disclosing information about future timber

harvesting that currently is "expected to commence," the plan submitter and RPF should be guided by standards of practicality and reasonableness. (14 CCR § 898; *see also* Technical Rule Addendum #2.) The disclosure's level of detail should reflect the level of planning and fieldwork that has taken place for the future timber harvest. Future timber harvesting that will in the near future be submitted to CDF in the form of a THP must be specifically disclosed. Future harvesting that may take place further in the future and that has been subjected to less planning and analysis by the plan submitter may be disclosed in more general terms. Future timber harvesting that may take place beyond the plan submitter's planning horizon and is merely contemplated may be too speculative to disclose.

