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February 3, 2016

U.S. Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-HQ-OAR-2013-0572
Mail Code 2821T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Subject: Comments on proposed revisions to Exceptional Events Rule

The California Department of Forestry and Fire Protection (CAL FIRE) is pleased to submit the following comments to the United States Environmental Protection Agency on the Exceptional Events Rule (EER).

CAL FIRE has responsibility for wildland fire protection and suppression on over 31 million acres of California's privately-owned wildlands (also known as State Responsibility Area). The Department supports the use of prescribed fire for addressing wildland fire fuel hazards in order to protect communities and to enhance and protect the State's watersheds. Through the Department's Vegetation Management Program, we are able to use prescribed fire to mimic natural processes, restore fire to its historic role in wildland ecosystems, and provide significant fire hazard reduction benefits that enhance public and firefighter safety. Consequently, CAL FIRE appreciates the opportunity to comment and provide feedback on the proposed revisions to the EER.

Supportive Comments

- **Affirming the role of fire as an essential tool in reducing smoke impacts from wildfires.** The proposed revisions to the EER clearly state that "allowing some wildfires to continue to burn even though they could be suppressed and the thoughtful use of prescribed fire can influence the occurrence, size and severity of catastrophic wildfires, which may lead to improved public safety, improved protection of property and an overall reduction in fire-induced smoke impacts and subsequent health effects" (FR 72866).
- **Recognition of air quality tradeoffs.** We commend the EPA for recognizing air quality tradeoffs associated with managing for climate change and forest resilience. The proposed rule acknowledges the high likelihood of increased exceedances in the future "due to the natural accumulation of fuels in the absence of fire, due to climate change that

is leading to increased incidence of wildfire, which may necessitate land managers employing prescribed fire more frequently to manage fuel loads and achieve other benefits” (FR 72866).

- **Ecological and social benefits of fire.** Recent EPA documents include robust discussions on the ecological and social benefits of fire use. Recognition of the important and inevitable role fire plays in California’s ecosystem is critical for framing these issues, and the EPA should be commended for their inclusion of this language.
- **Recognition of the role of land managers and scientific literature, including management plans, in defining prescribed fire use cycles.** Overall use of this tool is critical as it allows subject matter experts to execute their appropriate role. The follow-up public review process in an EER Demonstration would allow any discrepancy to be noted for a subsequent review by the respective EPA Regional Office.
- **Definitions.** Regulatory definitions of wildfire and prescribed fire as defined will help in dialogue with air regulators and EPA regions and reduce confusion with the public.

Recommendations for Improvement

- **Proclamation of a State of Emergency.** Land managers in California are facing unprecedented fuel accumulations as a result of climate change and prolonged drought. On October 30, 2015, Governor Edmund G. Brown Jr. issued a State of Emergency Proclamation due to vast tree mortality in several regions of the state. The proclamation directed the California Air Resources Board and the California Department of Forestry and Fire Protection to work with federal land managers and the United States Environmental Protection Agency to expand the practice of prescribed burns, which reduce fire risk and avoid significant pollution from major wildfires, and increase the number of allowable days on a temporary basis to burn tree waste that has been removed in high hazard areas.

The purpose of the directive is to use prescribed fire on forested landscapes in order to reduce overstocked vegetation, which contributes to large fires and high amounts of emissions, and also to expand efforts to increase the number of available “burn days” that allow local entities and property owners to dispose of dead trees.

- **Increased pace and scale.** We anticipate needing to implement prescribed fire not only at increased frequencies (as cited in the proposed rule), but also at increased spatial scales and over longer durations, to adapt to and mitigate the effects of climate change in California’s vegetative communities. It is critically important that the US EPA, partner agencies, and stakeholders recognize the trade-offs in balancing forest resilience and public health benefits from an active fire program.

Due to fuel loading backlogs from fire exclusion, and the need to increase the pace and scale of fire use in the face of climate change, exceedances occurring under this new

science-based understanding of the role of fire should not be viewed as non-compliance with NAAQS, but rather as components of a more resilience-focused approach. Some exceedances will be necessary to ensure both ecological resilience and public health and safety in the long term.

Significant increases in prescribed fire and fuels treatments are needed on the landscape to achieve forest ecosystem health and resilience. It is important that the EER implementation and guidance to the regional and state regulatory agencies includes the needed increases in this activity and not just maintain current conditions. Prescribed fire needs to become a regular part of the best management practices available to forest managers.

- **Expedited submittal process for filing exceptional events demonstrations.** The State of California, through CAL FIRE, is responsible for implementation of prescribed burning for natural resource and public health and safety benefits under our Vegetation Management Program. As such, we have responsibility for utilizing prescribed fire for managing drought related tree mortality, forest health, resilience and productivity, and community wildfire protection. We expect that there will be occasions when we may trigger exceedances in accomplishing these objectives.

CAL FIRE, working through the California Air Resources Board, supports a process that would expedite the exceptional events demonstration development and submittal process, and reduces costs, time, and coordination challenges associated with those filings.

- **Smoke management.** As air quality standards tighten, the likelihood of prescribed fire exceeding standards increases, even in areas where fire has been utilized effectively. This potential exists in areas facing a hazardous backlog of fire use and fuels treatments, such as in the west. Guidance is needed for state regulatory agencies and the EPA regions in assessing smoke management approaches, barriers to the use of the EER, or those creating significant obstacles to the use of prescribed fire. This is especially important if the goals of the Cohesive Strategy for managing wildlife are to be accomplished.

- **Multiple demonstrations from downwind effects.** With the update of NAAQS for daily ozone and PM2.5 annual standards, there will be potential for significant increases in non-attainment areas which may include millions of acres where fire plays a key role. In addition, the trends for long duration and larger wildfires may result in elevated ozone concentrations, which could potentially increase exceedances or derail attainment schedules. The emissions from these large fires can cross state boundaries and EPA regions. It is absolutely critical that these contributions be removed from any attainment determination for the use of this rule, or through oversight provided by the EPA. Although the EPA has provided guidance for this purpose, the process for ozone protection seems onerous and costly when the impacts move out of the local level. A process should be clarified for the states downwind which ties to the initial state demonstrations rather than creating multiple demonstrations. A publicly accessible clearinghouse for demonstrations

underway with lead state and EPA regions should be developed that provides basic information to the land management community for added efficiency. The material developed in support of large wildfires by the Incident Management Teams and Air Resource Advisor (if assigned) should be a significant portion of the demonstration.

- **Pre-submittal meetings.** The step of conducting a pre-submittal meeting with the agency proposing the demonstration with the EPA region is a valuable addition to the rule. Additionally, the EPA should propose that when the EER is finalized, there is a coordinated effort to address how the EER can be used in that jurisdiction. The coordination effort should be among state regulatory agencies, state forestry agencies (frequently the agency administering the smoke management program), and federal land managers who may submit a demonstration in advance of possible use of the new EER.

Conclusion

The State of California is facing unprecedented challenges in the face of climate change, severe drought, longer and more intense wildland fire seasons, and the resultant impacts on the health and resiliency of the State's watersheds. As a result, prescribed fire will continue to be an integral component within the fire adapted ecosystems of the State. Thank you for the opportunity to comment on the proposed revisions to the EER and considering our suggested recommendations for improvement. CAL FIRE will continue to work with the California Air Resources Board and our other partners to identify opportunities to increase the use of prescribed fire in managing forest health and public safety.

Sincerely,



KEN PIMLOTT

Director

cc: John Laird, Secretary, Natural Resources Agency
Katie Wheeler Matthews, Director at Gov. Edmund G. Brown, Jr., Washington DC Office
Karen Magliano, Assistant Division Chief, Air Resources Board