

Assembly Bill No. 2239

CHAPTER 291

An act to amend Sections 4593.10, 4597.2, 4597.9, 4597.15, and 4597.16 of the Public Resources Code, relating to forestry.

[Approved by Governor August 25, 2014. Filed with
Secretary of State August 25, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2239, Chesbro. Forest practices: management plans: change of ownership.

The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations on timberland unless a timber harvesting plan has been prepared by a registered professional forester and has been submitted to the Department of Forestry and Fire Protection and approved by the Director of Forestry and Fire Protection or the State Board of Forestry and Fire Protection. A violation of the act is a crime.

Existing law authorizes a person who intends to become a working forest landowner, as defined, or nonindustrial tree farmer, as defined, to file a working forest management plan or a nonindustrial timber management plan, as applicable, 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 requires, in the event of a change of ownership of the land described in the working forest management plan, the landowner to notify the new landowner of the existence of the plan and the need to notify the department of the new landowner's intent regarding assumption of the plan. Existing law provides the new landowner one year from the date of the receipt of the notification by the department to notify the department in writing of the assumption of the working forest management plan and if the department does not receive notification within this period, the plan expires. In addition, existing law requires a nonindustrial timber management plan to expire 180 days from the date of change of ownership unless the new timberland owner notifies the department in writing of the change of ownership and his or her assumption of the plan.

This bill would, in the event of change of ownership of land described in a nonindustrial timber management plan, require a transferring landowner to notify the acquiring landowner of the existence of the plan and the need to inform the department if he or she intends to assume the plan.

This bill would require, upon change of ownership of land described in either a working forest management plan or a nonindustrial timber management plan, the transferring landowner to send the department a copy of the notice provided to the acquiring landowner. The bill would require the department to provide the acquiring landowner with the notice if the

transferring landowner fails to provide it and the department discovers the change of ownership. The bill would give the acquiring landowner one year from the date of the receipt of either notice to notify the department of his or her intent to assume the plan. The bill would authorize the department to cancel the plan if no notice is received within this period. This bill would make other technical changes.

The bill would provide that a violation of the above provisions relating to notice by a landowner does not constitute a crime.

The people of the State of California do enact as follows:

SECTION 1. Section 4593.10 of the Public Resources Code is amended to read:

4593.10. (a) Upon a change of ownership of the land described in the nonindustrial timber management plan, the transferring landowner shall provide the acquiring landowner with written notice that discloses the existence of the plan and informs the acquiring landowner of the need to notify the department if the acquiring landowner intends to assume the plan. The transferring landowner shall also send the department a copy of the notice provided to the acquiring landowner.

(b) If the transferring landowner fails to provide the notice required in subdivision (a) and the department discovers the change of ownership, the department shall provide the acquiring landowner with the notice described in subdivision (a).

(c) The acquiring landowner shall have one year from the date of the receipt of the notice required pursuant to subdivision (a) or (b), whichever is applicable, to notify the department in writing of his or her assumption of the plan. If the department does not receive notification within this period, the department may cancel the plan.

(d) A violation of this section by a landowner does not constitute a crime pursuant to Section 4601.

SEC. 2. 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.

(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. 3. Section 4597.9 of the Public Resources Code is amended to read:

4597.9. (a) Upon a change of ownership of the land described in the working forest management plan, the transferring landowner shall provide the acquiring landowner with written notice that discloses the existence of the plan and informs the acquiring landowner of the need to notify the department if the acquiring landowner intends to assume the plan. The transferring landowner shall also send the department a copy of the notice provided to the acquiring landowner.

(b) If the transferring landowner fails to provide the notice required in subdivision (a) and the department discovers the change of ownership, the department shall provide the acquiring landowner with the notice described in subdivision (a).

(c) The acquiring landowner shall have one year from the date of the receipt of the notice required pursuant to subdivision (a) or (b), whichever is applicable, to notify the department in writing of his or her intent to assume the plan. If the department does not receive notification within this period, the department may cancel the plan.

(d) A violation of this section by a landowner does not constitute a crime pursuant to Section 4601.

SEC. 4. Section 4597.15 of the Public Resources Code is amended to read:

4597.15. Notwithstanding any other provisions of this chapter, if a registered professional forester certifies by written declaration, on behalf of the timber owner or operator, that the working forest harvest notice conforms to and meets the requirements of the approved working forest management plan under which it is filed, timber operations may commence immediately. If the notice has been filed by mailing, operations may commence three days after the notice has been mailed.

SEC. 5. Section 4597.16 of the Public Resources Code is amended to read:

4597.16. If the department determines that the objectives of uneven aged management and sustained yield are not being met by a working forest

landowner, or there are other persistent violations detected that are not being corrected, the department shall cancel a previously approved working forest management plan and any further timber operations under the plan shall be terminated. In making a determination to cancel a plan, the department may cite the findings of a review conducted pursuant to Section 4597.12. Cancellation of the plan may be appealed by the plan submitter or landowner utilizing the process prescribed in paragraph (1) of subdivision (e) of Section 4597.6.

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