Regulation and Other State Forest Policies in California

by

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I was originally asked to talk about forest practices regulation in California, particularly in relation to your workshop theme: "Economic Impact of Government on Forestry." But to consider state forest practice regulation in isolation is much too narrow a way to view the economic impact of government. A number of other forest policies, besides cutting practice regulation, also have significant economic impact. Thus, I believe that California probably has the most rigorous forest practice regulation of any state at the same time it has the most favorable forestry policy of any state. To make these points, let me briefly discuss four matters: the economic and political context in which California forestry operates, the total forestry policy of the state, our system of forest practice regulation, and some observations on the economic impacts of the policy.

The economic and political context

The California forest products industry ranks third (sometimes second) among the states in the value of industry output. Annual log production is about 5 billion board feet, some 60 percent of it from private land. Thus, from the national perspective and from the standpoint of the 20 or so counties in the state where timber production is significant, the forest products industry is of major importance. But looked at from the statewide perspective, the economic importance of timber production ranks well down in our state's

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economy. The industry accounts for only about 6 percent of the state's gross product and falls well behind agriculture, petroleum refining, aerospace, motion pictures, and a number of other industries. To the people in the Los Angeles basin, the forest products industry is a remote activity with little apparent relation to their major concerns.

California is an urban state with 90 percent of population living in urban places. The one man, one vote principle means, then, that the values of urban society dominate the political climate. The State is the birthplace and lifelong home of the Sierra Club. Many of the people who have come to California to reside have done so because of environmental amenities there. Many of them have both the desire and the political organization to fight to maintain those amenities. The people of the state are outdoor oriented. One fourth of all the recreation visits to National Forests are made in California, although that state has only 11 percent of the National Forest land.

A third significant determinant of the forest policy context in California derives from the climate. It is mediterranean in character, with rainfall virtually limited to the six month period November through April. Water is a primary factor dictating or limiting the location and extent of economic development. Ninety percent of the water that falls in the State falls on forest land. Since the topography of watersheds is generally steep and many forest soils are unstable, land management has a significant relationship to water quality. As a result, California had state laws for water development and for water quality protection long before the Federal government began to intervene in such matters.

The climate also provides us with extreme forest fire hazards. The annual expenditure on private land for basic protection against fire is now on the order of $2.50 per acre per year. Despite what is probably one of the most
intensive systems of wildland fire protection in the world, losses to
wildfire remain significant and the threat of fire disasters remains a possi-
bility in every month of the year.

California's forest policy

In response to the various economic, political, and geographic circumstances
I have just outlined, California has developed a comprehensive state forestry
policy applicable to all state and private land. Forest area is roughly
equally divided between federal ownership (mostly National Forest) and private
ownership. State forests are very limited in extent and only about one-third
of the private land is held by the forest products industry.

The oldest and most important state policy is protection of all private
land against wildfire. The current budget for this purpose is about $85 million
per year, most of it funded from the State's General Fund. (The Federal
Clark-McNary program contributes only about $2 million to California.) Thirty
six million acres (out of 100 million acres in the state) is state responsi-
bility forest and watershed land.

A favorable system of forest taxation is the second element. Beginning
in 1926 all timber growing on land from which 70 percent or more of the original
growth had been removed was exempted from the General Property Tax for 40 years
and until declared mature. By 1976, increasing problems with timber tax
exemption led to the adoption of the Forest Tax Reform Act. Under it, timber
now pays a yield tax at time of harvest instead of annual general property
taxes, and forest land classified as Timber Production Zone is assessed at its
value for timber growing purposes, rather than on the basis of highest and
best use. A little over 60 percent of the private commercial forest is currently
classified TPZ. Finally, in 1978 state income tax legislation was revised to
permit write-off of planting costs against current income over a five year period.
Service forestry is carried on by the state in cooperation with the Forest Service much the same as here in the South. However, the program has been very small because of the limited amount of federal funding allocated to California for these programs. In 1978 the Legislature passed a Forest Improvement Program under which state subsidies will be made available to small forest landowners to assist them in planting, stand improvement and a variety of other forest improvement projects.

Professional education and research have been elements of the State's forestry policy since 1914. We have two professional forestry schools in the state, several forest technician programs, and a relatively substantial state supported forestry research program conducted through the University of California. Last year the Legislature established an ongoing Forest Resource Assessment and Programming Act which provides for analysis of the forest resources as a basis for public and private forestry programs. This function is carefully coordinated with the Federal RPA.

The final element in the State's policy is the regulation of cutting practices on all non-federal land. I will now describe that policy in some detail. But please bear in mind that regulation takes place only as one element of the broad and generally favorable forest policy I have just summarized.

State regulation of cutting practices

Regulation of timber harvesting practices began in California in 1947 with adoption of an industry sponsored Forest Practices Act. Regulation was accomplished through a Board on which industry membership dominated. In 1972, after 25 years of operation, the original Forest Practices Act was declared unconstitutional. It was then replaced by the Forest Practices Act of 1974, adopted under an emergency atmosphere and during the peak of the environmental concern of the early 1970's. The Act provided a new framework designed
to remove the constitutional defects of the earlier law.

The intent of the Act as stated in it is to maintain a vigorous forest products industry, and to encourage prudent forest management while giving due consideration to water quality, maintenance of soil productivity, wildlife, recreational, and aesthetic values. A new Board of Forestry was established with authority to make rules of forest practice and the Department of Forestry was empowered to enforce the rules of the Board. Although three members of the Board must be drawn from forest industry and one from grazing interests, five persons including the Chairman of the Board must be drawn from the general public without special interest in forest products or forest land.

Under this law every operator must have an operator's permit. Such permits may be cancelled or refused for wilfully or repeated violation of the Act. In addition, a Timber Harvest Plan must be submitted for each specific operation. Currently, we receive about 2,000 THP's each year so that the average plan probably covers the logging of 1 to 2 million b.f. on an area of 50 to 100 acres. Every Timber Harvest Plan must conform to the rules of the Board and must be signed by a Registered Professional Forester. (Foresters must be licensed in California.) The Director of the Department of Forestry may refuse to conform a THP as submitted if it is found to violate any of the rules of the Board. It is a misdemeanor to operate without a conformed Timber Harvest Plan.

The statute requires that all areas must have achieved specified minimum standards of stocking within five years of completion of logging. If this is not attained and certified by field examination, the land may be restocked by the Director of Forestry at the landowner's expense.

The rules of forest practice to which each THP must conform cover such matters as fire prevention, methods of securing required regeneration, silvi-
cultural systems, stream and lake protection, wildlife habitat protection, road standards, and other matters. Different rules have been developed for four major subregions within the state and for some Special Treatment Areas within these subregions.

Once the Timber Harvest Plan has been approved the operator may proceed. But the operating area is inspected periodically by the Department of Forestry and the provisions of the Plan are enforced. Criminal penalties are provided for violations of the terms of the Plan. The Department has filed suits and defendants have been fined in the course of this enforcement phase.

If a Timber Harvest Plan is denied by the Director of Forestry, the applicant has a right of appeal to the Board of Forestry. As a result of such appeals the general process has been tested in the lower courts. One suit was brought by landowners whose Plan had been denied; one was brought by adjacent property owners against the Board's approval of a Plan. Both suits attacked the Board's procedures and interpretation of its statutory authority. The board prevailed in both cases.

A very important feature of our regulatory system is that other pieces of legislation come to bear through the Forest Practices Act. For example, we have a Coastal Commission Act, state Wild and Scenic Rivers Act, the California Environmental Quality Act, a State Endangered Species Act, and a State Water Quality Control Act, in addition to operations under Sec. 208 of the Federal Water Pollution Control Act. Certain features of all of these pieces of legislation influence contents of the Forest Practice Rules and how the Act is administered.

**Economic impacts of California's forest policy**

We do not have detailed studies of each of the several elements of costs and benefits that arise from the State forestry policy I have just outlined.
However, a rough assessment of the situation, based on such informed professional judgements as I have been able to find would be about like this.

For the first four policy elements I described--protection from fire, favorable taxation, service forestry, and professional education and research--the benefits to the industry (and to the general public as well) clearly exceed the costs by a very substantial margin. I cannot put a dollar figure on it, but I know of no substantial thrust either within industry or within the general public to significantly reduce any of these four kinds of state supported forestry programs on grounds that costs exceed benefits.

In forest practice regulation the cost of complying with the regulations appears to be on the order of an $8 to $35 per M b.f. increase in logging costs over what such costs could be in the absence of any regulation whatsoever. This increase in costs appears to be borne at least in the short run by the landowner in the form of lower stumpage values. During the period since the 1974 Regulatory Act went into effect, stumpage values have in fact risen in the range of $80 to $160/M. Thus, cost increases due to forest practice regulation have been more than offset by coincidental stumpage price increases. The owners have, thus, not been placed in a prejudiced position.

Administrative costs of the Act are of the order of $4/M. In addition, there are intangible costs arising from regulation in the form of frustration of those regulated and those doing the regulating. I trust that as we gain more experience and skill, these psychic costs can be reduced.

On the benefits side, the forest products industry in the State continues to operate with general financial success. Given the magnitude of the resource management problems, the industry is I believe doing more to protect legitimate environmental values than is being doing in this industry anywhere else. The results of this increased environmental protection are visible on the face of the land. As a result of the program we now have in the form of Timber Production
Zone the only land use classification I know of in the United States which provides some barrier to taking commercial forest land out of timber growing use. We are making some progress in integrating, through our system of Forest Practice Regulation, the multifarious aspects of the regulatory process, whether it be for water quality, endangered species, coastal protection, or whatnot. And finally, the regulatory system is beginning to provide a way of giving responsible environmentalists some realistic understanding of the need for forestry and of the essential political climate which must be maintained if forestry is to remain an economic enterprise in our state.

In my opinion, these benefits up until now have clearly outweighed the costs. As we make progress in improving, simplifying, and gaining understanding of the system I expect the balance of benefits over costs to further improve.