



To: Environmental Protection Agency, EPA Docket Center (EPA/DC)  
Docket ID No. EPA-HQ-OAR-2013-0572

Re: Comments on EER Federal Register Notice Vol. 80 No. 224 FR 72840-72897 (dated 11-20-2015)

February 3, 2016

To Whom It May Concern:

The Northern California Prescribed Fire Council represents a diverse group of fire managers, regulators, academics, tribes, and other parties who implement, research, or otherwise support the use of prescribed fire in California's fire-adapted ecosystems. We are writing this letter to provide comments on the EPA's Exceptional Events Rule (EER), including affirmation of some of the encouraging fire-centric language in the revisions, as well as suggestions for where the rule may need additional clarification and framing.

### **Fire in California**

Fire, ignited by lightning and Native Americans, has shaped the structure and composition of the majority of California's ecosystems for millennia, and is indisputably a major component of natural background conditions in the state. Scott Stephens, a fire science professor at UC Berkeley, estimates that approximately 4.5 million acres burned every year in California prior to 1800—that's just less than the average annual area burned in wildfires throughout the entire U.S. during the period 1994-2004, which was considered an extreme decade for wildfire. In California's most abundant forest types, these historical fires were frequent and of limited intensity, consuming dead material and killing small trees, but leaving most large trees alive and intact. However, a century of fire suppression has led to significant shifts in forest composition, structure, and function, resulting in fires that are now uncharacteristically intense and lethal.

Despite increasing expenditures on fire suppression, these intense fires represent a growing proportion of the annual area burned in California's forests, creating periods of severely degraded air quality, threatening human life and property, and altering the natural landscape, with implications for the conservation of threatened and endangered species.

Reversal of these trends requires the restoration and maintenance of forest conditions that once allowed for and were maintained by frequent, lower intensity fires. The scale of this task is immense, and fire itself, carefully and regularly applied under moderate conditions as either prescribed fire or managed wildfire, is the single most effective and efficient tool for restoring and maintaining forest health while protecting against future catastrophic fire and related threats to public health and welfare.

We are encouraged to see supportive language around fire use in the EPA's revised Exceptional Events Rule. This recognition of the role of fire is a critical first step toward the major policy and management changes that are necessary to restore fire—and protect communities and public health—on a truly meaningful scale.



### ***Prescribed fire and managed wildfire***

As a prescribed fire council, our primary focus is the use of management-ignited prescribed fires that meet objectives outlined in a thorough, upfront planning process. There is broad agreement within both the management and scientific communities on the effectiveness and unique values of prescribed fire, which cannot be fully achieved through other, non-fire-based means. Cultural burning fits under this umbrella as well, and we would like to emphasize our support for tribal efforts to revitalize cultural burning practices and fire regimes.

However, we also understand the harsh reality of California's current fire and fuels management backlog, where annual treatments to reduce wildfire hazard cover a mere fraction of the area that needs attention. In addition, we know that it is not feasible to fully address wildfire hazard—and resulting harmful emissions—with management-ignited prescribed fires and mechanical treatments alone. Many areas are either too steep or too remote for mechanical treatments, or are designated wilderness, where fire is the only tool for maintaining forest resilience. As a result, we recognize the need to define beneficial fire more broadly, and to regard both prescribed fire and managed wildfire as important tools for bringing fire-adapted ecosystems in California and throughout the country into a more resilient condition.

### **Specific considerations**

- **Affirming the role of fire as an essential tool in reducing smoke impacts from wildfires:**

Recent EPA documents include robust discussions of the ecological and social benefits of fire use. 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” (80 FR 72866). Recognition of the important and inevitable role of fire in California is critical for framing these issues, and we commend EPA for their inclusion of this language.

- **Fully recognizing air quality tradeoffs associated with managing for climate adaptation, mitigation, and forest resilience:**

The proposed rule also acknowledges the high likelihood of increased exceedances in the future “due to the natural accumulation of fuels in the absence of fire, [and] 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” (80 FR 72866).

Land managers in California are experiencing unprecedented fuel accumulations as a result of climate change and prolonged drought, and, as outlined in Governor Brown's recent Executive Order,<sup>1</sup> prescribed fire is one of the state's primary tools for addressing drought-related fuels. 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 CA's vegetative communities. It is critically important that 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 scope and scale of fire use in the face of climate change, exceedances occurring under this new, science-based understanding of the

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<sup>1</sup> [https://www.gov.ca.gov/docs/10.30.15\\_Tree\\_Mortality\\_State\\_of\\_Emergency.pdf](https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf)



role of fire should not be viewed as non-compliance with NAAQS, but rather as implicit components of a more resiliency-focused approach. Some exceedances will be necessary to ensure both ecological resilience and public health and safety.

- **Inability of the rule to provide an adequate regulatory tool for restoring forest resilience and reducing overall emissions from wildland fire and impacts on public health:**

While an improvement over the prior EER, the new proposed rule serves to further the false dichotomy that suggests human beings somehow live outside the environment that sustains us all. The use of terminology such as “natural” versus “anthropogenic” sources or causes is outdated and confusing in the context of wildland fire. Fire is an inevitable and natural part of California’s future and regardless of cause, anthropogenic decisions have affected and will continue to affect all wildland fire outcomes and public health effects. We must accept that there are emissions trade-offs, learn how better to live with that fact, and get on with the work of restoring and maintaining the resilience of fire-adapted ecosystems.

The Statement of Intent<sup>2</sup> for California’s Coordination and Communication Protocol for Naturally Ignited Fires (June 1, 2011)<sup>3</sup> states: “Another guiding element is that fire management activities incorporate public health and environmental quality considerations. Thus, a goal of LMAs is to pursue appropriate actions to minimize adverse public health impacts from fire emissions without jeopardizing firefighter and public safety.” Not only does prescribed fire provide the opportunity to reduce smoke emissions from fire, but it also occurs under conditions that are likely less hazardous to firefighters.

Although the proposed EER may ease the process for demonstrations and provide additional guidance or rules to better clarify what information is needed for demonstrations, the process to monitor and apply for the EER is likely to remain cost prohibitive and cumbersome; this is especially true for prescribed fire, and as a result, the rule is and will likely be rarely used for that purpose. While we appreciate EPA’s commitment to “working with federal land managers, tribes and states to effectively manage prescribed fire use to reduce the impact of wildland fire related emissions on ozone” (80 FR 75384), to our knowledge the EER has never been used to exempt prescribed fire in California.

We believe that beneficial fire use should be the primary component of any practical strategy to restore and maintain forest resilience on a landscape scale and protect the public from severe wildfire events and related pollutants. By failing to acknowledge tradeoffs over time, the current regulatory system unduly limits the duration of planned burns, limits burn windows, limits burn seasons, and makes the process more costly and politically risky for managers to attempt.

EPA understands the benefits of using prescribed fire to limit emissions from larger, uncharacteristic fires (80 FR 72869-72870).<sup>4</sup> It is time for EPA to offer a more streamlined, less costly and cumbersome process that fosters the use of beneficial fire. Recognizing the need for prescribed fire to prevent catastrophic events, and promoting landscape fire plans, smoke management BMPs, and collaborative

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<sup>2</sup> [http://www.arb.ca.gov/smp/nif/appendix\\_a.pdf](http://www.arb.ca.gov/smp/nif/appendix_a.pdf)

<sup>3</sup> [http://www.arb.ca.gov/smp/nif/Coordination\\_and\\_Communication\\_Protocol.pdf](http://www.arb.ca.gov/smp/nif/Coordination_and_Communication_Protocol.pdf)

<sup>4</sup> “The 2007 Exceptional Events Rule recognized the benefits of prescribed fire as summarized earlier in this section and included provisions for these event types in both the preamble to the final rule and in regulatory language... The preamble language recognized that, although case and area-specific, any number of conditions could exist that would favor the use of prescribed fire rather than alternate treatments. Such scenarios identified in the preamble included: significant build-up of forest fuels in a particular area that if left unaddressed would pose an unacceptable risk of catastrophic wildfire; pest or disease outbreak; natural species composition dependent on a specific fire return interval; and legal requirements precluding the use of mechanical fuel reduction methods.”



coordination between fire managers, air regulators, scientists and public health officials is the best path forward. EPA will also need to stop exempting wildfire events from attainment calculations to allow for honest tradeoff accounting.

Thank you for the opportunity to comment on the revised rule and shed light on the critical connections between forest health and public health. Fire is an inevitable and natural part of California's future, but the nature of that fire is in our hands. We hope that in addition to the Exceptional Events Rule, the EPA will seek new opportunities to offer a regulatory environment that specifically recognizes and enables the use of beneficial fire on the landscape.

Please feel free to contact us if you need any further information.

Sincerely,

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