How are forests regulated?

California’s forests are regulated by either the state or the national government. The state regulates logging on private property and in State Demonstration Forests. The national government manages everything else – national parks, national monuments, national forests, BLM lands, wilderness areas – with each category having its own laws and regulating agencies.

State Regulation

The State of California has legal responsibility to safeguard the natural trust resources of water and wildlife that belong to its citizens. This responsibility is documented in the Forest Practices Act:

“The Legislature hereby finds and declares that the forest resources and timberlands of the state are among the most valuable of the natural resources of the state and that there is great concern throughout the state relating to their utilization, restoration and protection.”

That authority for managing the harvesting of forests on private lands has been delegated to the California Department of Forestry (CDF) with disputes settled by the Board of Forestry (BOF). In addition, in 1999 the State Water Resources Control Board waived its responsibility to safeguard water quality during timber operations if the CDF had approved the Timber Harvest Plan (THP). Historically, the Department of Fish and Game has operated only in an advisory capacity with regard to the approval of THPs. In summary, the CDF and the BOF have had the preponderance of power in the approval of THPs.

1. How is logging regulated?

The steps in the logging approval process are:

1. The timber company submits a Timber Harvest Plan (THP) to the California Department of Forestry (CDF).
2. The public has 30 days to submit objections to the THP.
3. The review team, comprised of CDF, a regional water board, and the Department of Fish and Game, approves or rejects the THP. County officials and the public may attend review team meetings.
4. Only San Mateo, Marin, Santa Clara, and Santa Cruz counties have the legal right to appeal the review team’s decision.
5. Disputes are settled by the Board of Forestry (BOF).

The main laws this process operates under are:
• 1970 CA Endangered Species Act (CEQA) — Public decision-makers must document, consider, and disclose the environmental implications. Significant environmental impact must be mitigated.


The state agencies that implement these laws are:

• California Department of Forestry, which fights fires and manages timber harvesting
• Department of Fish & Game, which safeguards fish and wildlife
• Regional water boards, which safeguards water quality. (Its authority was legally delegated to CDF.)
• Board of Forestry, which is appointed by the governor and settles THP disputes

Non-governmental agencies/individuals can participate in the process in the following ways:

• The public must find out what THPs have been proposed and investigate possible violation of the two laws above. The public has thirty days to object to a proposed THP on the basis of harm to endangered species, slope stability, erosion, etc.
• The public cannot appeal the review team’s decision. The only way the public can get an approved THP overturned is by filing a lawsuit.

Legislators can change the process through legislation, such as SB234, which would change the makeup of the BOF to include more than timber industry representatives.

2. What are the problems with the regulation process?

1. The California Board of Forestry has the authority to regulate logging and insist on responsible and sustainable practices. Its BOF, which resolves disputes, is comprised mainly of timber industry people and the board approves virtually all THPs.

2. Regional water boards and the Department of Fish and Game have the responsibility to safeguard resources but exert little influence.

3. Theoretically, CDF rules in favor of a THP if it does not break a specific Forest Practices rule. In practice, THPs are approved unless the legal breach is glaring or the public points out the problem, and they are usually approved regardless of what evidence is submitted.

4. Each 20-acre plan is judged separately. CDF does not consider the cumulative effects of harvesting 1,000 or 1,000,000 acres.

5. If the Board of Forest supports a THP approval, the public’s only recourse is a costly legal suit.
6. Local government and the community are not part of decision-making process. San Mateo, Santa Cruz, Santa Clara, and Marin counties can appeal a THP approval.

7. No county or watershed or statewide management plan for forested land use exists that influences the THP approval process. There is nothing like city plans or zoning. The probable impact of logging practices on downstream neighbors, other businesses, the local community, or state does not limit CDF’s approval of an upstream THP’s.

8. Penalties for logging without an approved THP are small or nonexistent.

**Summary:**

CDF performs as if its job is to facilitate the harvesting of timber, with little thought of safeguarding the natural trust resources of water and wildlife and no thought to the impact of logging on local communities or the state. California’s natural resources are being damaged/sacrificed for the short-term monetary gain of the timber industry without considering long-term land use plans for the natural trust resources that belong to the citizens or for the economy and welfare of local community members and statewide water users.

At present, it falls upon businesses such as East Bay Municipal Utility District (EBMUD) and concerned private citizens to monitor THPs - and to object on the basis of endangered species, slope stability, erosion, cumulative impacts, etc.

**How can this situation be improved?**

1. End the practice of clearcutting (and nearly total clearcutting) in order to protect water sources, habitat, and recreational and scenic resources.
2. Protect rivers and streams from damaging logging close enough to the waterway to cause excessive sedimentation.
3. Manage forests in a way that balances the needs and rights of the watershed, the community, the state, and the timber industry.
4. Instigate land use management that involves the key stakeholders affected by the logging.

An example of managing forestlands with the community in mind is the following: In 1997, New York City decided to spend a billion dollars to clean up water at the watershed source rather than be mandated by the federal government to pay billions for downstream treatment plants.

**What are the elements of a solution?**
1. Modify THP process to include affected stakeholders in forest-harvesting decisions and long-range land-use planning.
   a. Improve THP appeal process approval process
   b. Implement adequate mitigation of impacts to watersheds
   c. Modify process to include community stakeholders
2. Modify forest practices to protect watershed, wildlife, habitat:
   a. Move the oversight of water quality impacts from California Department of Forestry back to the California Water Resources Control Board
   b. Require active regulation of THPs by all agencies including Regional Water Quality Control Boards and Department of Fish and Game
   c. Judge the impact of THPs cumulatively rather than individually
   d. Fill vacancies on the Board of Forestry and Water Board with environmentally-minded public representatives
   e. Limit the rate of logging to a maximum percentage of the watershed
   f. End clearcutting
   g. Implement forest practices that are safe for salmon and wildlife
   h. Improve herbicide accountability. Test waterways and make the timber company accountable for damage.
   i. Change criteria for watershed monitoring
   j. Institute and enforce adequate penalties for CDF logging-practice violations