



## State Policies Regarding Private Forest Practices

A Position of the Society of American Foresters

*Originally adopted by SAF in March 1975 as Criteria for State Forest Practices Acts. Revised and renewed in April 2019. This position statement will expire in 2024, unless, after subsequent review, it is further extended by the SAF Board of Directors.*

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**Purpose:** Give guidance to all stakeholders when considering reforms or updates to private forest practices policies.

**Scope:** This is intended to address forest practice policies on private lands, including existing or proposed regulatory systems, which vary widely from state to state.

### Position

The Society of American Foresters supports private lands policy approaches that are thoughtful, flexible, and science-based, and that help landowners achieve their objectives while maintaining environmental quality, sustainability, and ecosystem services. Policies exist on a broad spectrum, from education and training, subsidies and market-based initiatives, to command-and-control regulation (Bocher 2012). SAF encourages state policy makers to consider effective approaches that incentivize good stewardship and allow landowners to both maintain ownership and to achieve their diverse objectives (Butler et al. 2016). Generally, non-regulatory approaches (e.g., Best Management Practices) have been found to be effective in achieving private forest practice stewardship objectives (Cristan et al. 2016) and SAF recommends that these approaches remain in place. States with regulatory approaches, or those considering regulatory approaches, should consult with foresters and forest landowners regarding the design of such regulations, and include any necessary enforcement and landowner assistance elements in order to both protect environmental quality and promote sound forest stewardship. All forest practices policies should incorporate best available science, promote sustainable forest management, be balanced with a respect for private landowner rights, include mechanisms for adaptive management (particularly effectiveness monitoring), and treat forest management equitably in consideration of other land use activities, such as agriculture and development. SAF recommends the following criteria to guide the development, implementation, and evaluation of policies regarding private forest practices: Policies should: (1) have a knowledge based and transparent design; (2) ensure that forests are managed sustainably but allow for flexibility; and (3) be achievable and consistent.

## Issue

There is wide variability from state to state in the design and impacts of policies regarding private forest practices. Some state and local governments regulate private forest practices to comply with federal and state laws; enhance public health, welfare, and safety; and to protect public trust resources (e.g. water quality). Some have adopted regulations to sustain forest productivity and timber supplies. Others, responding to federal water quality legislation, have adopted regulations to control the levels of sediment from timber harvest activities (Ellefson et al. 1995, USDA Forest Service 2002). The majority of states have eschewed regulation in favor of non-regulatory forestry incentive programs, including best management practices, tax or fiscal incentives, educational outreach, and technical assistance (Ellefson et al. 1995). These non-regulatory approaches have been found to be largely effective when properly implemented (Cristan et al. 2016).

Regulatory systems may reduce the discretion of foresters and landowners, with consequences for landowners and forests. Regulatory systems may restrict landowner options for achieving objectives, and can be overly prescriptive or broad, inhibiting place-based forestry practices. Regulatory systems place planning and operational requirements on landowners who conduct certain forest management activities (e.g., timber harvest, forest improvement, road construction), and can impose requirements on foresters and loggers (such as licensing and permitting requirements). These requirements, and the costs involved, may modify landowners' choices and actions (USDA Forest Service 2002). Regulations may have positive effects on forest productivity and environmental quality; however, they can also have unintended negative effects, particularly if they impose burdens on landowners that reduce their incentives to manage their forest properties or lead landowners to exit forest management altogether, contributing to forest conversion (Mortimer et al. 2002). In some cases, regulations created through legislation or voter referenda exclude forester and landowner perspectives entirely, with potentially negative impacts on sustainable forest practices.

## Background

Private forests provide recreational opportunities, wildlife and fish habitat, timber, and forage. They contribute to improving water supplies and air quality, open spaces, and other environmental qualities. They provide any or all of these benefits at various levels and in various combinations. The level, mix, and sustainability of these benefits depend on the forest practices that landowners employ, which are in turn influenced by how state policies regarding private forest practices are designed and implemented.

### Considerations for State Policies Regarding Private Forest Practices

The following considerations are not intended to be comprehensive, and local context should always be considered with policy design:

#### 1. Policies need to be based on scientific knowledge and be transparent in design

Policies should be created, implemented, and monitored by bodies that represent the broad public interest, including foresters, private landowners or landowner groups, and the full range of forest users. Policy makers should establish collaborative, inclusive, and stakeholder-driven advisory groups to inform program administrators and program design. In this way, forest managers, landowners, and other stakeholders can share knowledge and build trust surrounding forest practice policies. All policies regarding private forest practices should be based on the application of scientific knowledge, sustainable forest management principles, and knowledge about the impacts of policies on landowners' objectives and rights to manage.

## **2. Policies should ensure that forests are managed sustainably but allow for flexibility**

Policies should promote the productivity of forest lands, helping landowners and managers avoid or mitigate environmental harms. They should be flexible, recognizing variations in forest conditions and in values associated with different forest types and ownerships. Forest land conditions as well as landowner interests and uses vary greatly and can change over time; policies can establish minimum standards, but need to also encourage innovation and professional judgement. Policies need to have clear statements regarding the goals they are attempting to achieve, but should avoid overly prescriptive forest management guidelines, allowing landowners and managers the discretion to achieve policy goals in ways that best suit their particular circumstances. Policies should also include mechanisms to evaluate their effectiveness at achieving stated goals.

Policies should enhance landowners' incentives to improve forest practices, directly or through associated complementary programs, cost-share investments, research and technology development, education, or tax mitigation. If states choose to implement regulatory systems, they should be accompanied by incentives to promote desired forest practices and support the viability of forest landowners to maintain forests as forest.

## **3. Policies should be achievable and consistent**

Private forest practices policies should be achievable and understandable to forest landowners and managers. Technical assistance is an important component of implementing policies, including regulations. This assistance can be through the private sector, but should also be available through state or cooperative extension services when possible. Policies should be applied consistently, and in regulatory systems, enforcement should be through appropriate governmental jurisdiction. If multiple levels of governmental jurisdiction enact regulations, processes should be streamlined to the extent practicable to avoid redundant or conflicting mandates. Enforcement of regulations must be performed by parties knowledgeable about environmental impacts and forestry and must be consistent among ownerships with similar characteristics.

Private forest policies should not exceed the capacity of the designated enforcement agency charged with implementation. Regulatory systems need adequate staff and financial support to maintain predictable application and equitable treatment, and to avoid conflict. Policies focusing on maintaining or enhancing public benefits from private forests should not be the sole financial burden of forest owners, but rather, shared by all who benefit. Under a regulatory system, clear information should be available to the public about the legal and financial costs of regulation.

## References

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