

Board of Forestry and Fire Protection
“RPF AND LTO RESPONSIBILITIES AMENDMENTS, 2017”
Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 4, Subchapter 7, Article 2
Amend: §§ 1035.1, 1035.2 and 1035.3

Key to formatting:

existing CCR Text ----- No underline or strikethrough

45-Day Noticed rule text addition (published 05/26/17) ----- single underline

45-Day Noticed rule text deletion (published 05/26/17) ----- ~~single strikethrough~~

deletions of 45-Day Noticed rule text proposed in this 15-Day Notice ----- ~~double strikethrough~~

additional rule text proposed in this 15-Day Notice ----- double underline

BEGIN RULE TEXT

§ 1035.1. Registered Professional Forester Responsibility.

(a) Upon submission of a THP, the RPF who prepares and signs a plan is responsible for the accuracy and completeness of its contents.

(1) The RPF preparing the plan shall state in the THP the work which will be performed by the RPF plan preparer (beyond preparation of the THP and attending the pre-harvest inspection if requested by the Director), and any additional work requiring an RPF which the plan preparer does not intend to perform. This may include, but is not limited to, field work in identifying ~~watercourse and lake protection zones~~ WLPZ(s) or ~~s~~Special t~~r~~reatment a~~r~~reas, marking trees, or other activities. The RPF is only responsible for the activities set forth in the plan when employed for that purpose, or required by Board rules.~~the rules of the Board.~~ The RPF shall state whether or not ~~he or she has~~

they have been retained to provide professional advice throughout the ~~€~~Timber ~~ø~~Operations.

(2) The RPF preparing the ~~p~~Plan shall in writing, inform the plan submitter(s) of their responsibility pursuant to ~~Section 14 CCR § 1035 of this Article~~, and the timberland owner(s) of their responsibility for compliance with the requirements of the Act and where applicable, Board rules regarding site preparation, stocking, and maintenance of roads, landings, and erosion control facilities.

(b) Upon entering into an agreement to accept responsibility for any part of the preparation or implementation of a ~~p~~Plan or any work beyond the preparation of a ~~p~~Plan, including providing professional advice; ~~all the~~ the responsible RPF(s) shall disclose to the real party of interest for whom ~~the RPF(s) is~~ they are providing professional forestry services of any known current or potential conflict of interest the RPF(s) have with regard to the timber or land that is subject to operations under the ~~p~~Plan. All responsible RPFs shall disclose to the timberland owner and plan submitter whether they are the real party of interest for whom the RPF is providing professional forestry services.

(c) Disclosure of newly discovered conflicts of interest an RPF has with regard to the plan submitter, timberland owner, timber owner, the LTO and timber purchaser, pertaining to the timber or land that is subject to operations under the ~~p~~Plan, shall be required as long as an RPF has responsibilities relative to the a ~~p~~Plan. The disclosure shall include identification of the real party of interest for whom the RPF is providing professional forestry services.

(d) All disclosures made between an RPF and an affected party pursuant to this section may be kept confidential.

(e) An RPF retained by the plan submitter to provide professional advice throughout the

~~†~~ Timber eOperations shall be present, or ensure that the RPF's ~~s~~Supervised dDesignee is present, on the ~~l~~Logging aArea at a sufficient frequency to know the progress of operations and advise the LTO and timberland owner, but not less than once during the life of the ~~p~~Plan.

(f) An RPF retained by the plan submitter to provide professional advice throughout Timber Operations, or the RPF's Supervised Designee, shall inspect the Logging Area prior to the commencement of operations each year to verify that operational flagging and timber marking required of an RPF, ~~under Board rules,~~ is accurate, adequate and in conformance with Board rules and the approved Plan.

(~~fg~~) An RPF retained by the plan submitter to provide professional advice throughout the ~~†~~ Timber eOperations shall inform the LTO during Timber eOperations of any mitigation measures incorporated into the ~~p~~Plan that are intended to address Timber eOperations that have a high likelihood of resulting in immediate, significant and long-term harm to the natural resources of the ~~S~~state if such mitigation measures are not strictly applied to minimize such impacts.

(~~gh~~) The RPF shall without delay notify in writing the LTO, the plan submitter, and the Department of a decision to withdraw professional services from the ~~p~~Plan.

Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4583.2 and 4583.5, Public Resources Code.

§ 1035.2 Interaction Between RPF and LTO.

(a) After ~~the start~~ approval of the ~~p~~Plan, ~~preparation process~~ but before commencement of Timber eOperations by each LTO assigned to the Plan, the responsible RPF or Ssupervised Designee ~~familiar with on-site conditions~~, shall meet with either the LTO,

or their representative supervised designee who will be on the ground and directly responsible for the harvesting Timber eOperations. The purpose of the meeting shall be for the RPF to familiarize the LTO with the Plan, the Plan area, and specific applicable requirements of the Plan including, but not limited to, the conditions listed below. The meeting shall be on-site if requested by either the RPF or LTO, ~~or if any of the following conditions apply to the approved Plan:~~

~~(1) Watercourse and Lake Protection Zone(s);~~

~~(2) Special Treatment Area(s) as defined in 14 CCR § 895.1;~~

~~(3) Buffer zone(s) for Sensitive Species or Listed Species;~~

~~(4) Archaeological resources within the Site Survey Area;~~

~~(5) Timber Operations on Unstable Areas;~~

~~(6) New Logging Road construction on slopes greater than 50%;~~

~~(7) Class I and II Tractor Road watercourse crossing(s);~~

~~(8) Class I and II Logging Road watercourse crossing construction or reconstruction;~~

~~An exception to the requirement for an on-site meeting may be approved by the Director when explained and justified by the RPF.~~

An on-site meeting is required between the RPF or supervised designee familiar with on-site conditions and LTO to discuss protection of any archaeological or historical sites requiring protection if any such sites exist within the site survey area pursuant to Section 929.2[949.2, 969.2](b). If any amendment is incorporated to the plan by an RPF after the first meeting, that RPF or supervised designee familiar with on-site conditions shall comply with the intent of this section by explaining relevant changes to the LTO; if requested by either that RPF or LTO, another on-site meeting shall take place. The intent of any such meeting is to assure that the LTO:

~~(a) Is advised of any sensitive on-site conditions requiring special care during operations.~~

~~(b) Is advised regarding the intent and applicable provisions of the approved plan including amendments.~~

(b) The RPF shall notify the LTO of any amendment to the Plan, subsequent to Plan approval, affecting Timber Operations. An on-site meeting to review amendments affecting Timber Operations shall occur if requested by either the RPF or LTO.

Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4581 and 4582, Public Resources Code.

§ 1035.3. Licensed Timber Operator Responsibility.

Each affected ~~licensed Timber Operator~~ LTO shall:

(a) Sign the pPlan and major amendments to the pPlan, or sign and file with the Director a facsimile of such pPlan or amendments, agreeing to abide by the terms and specifications of the pPlan. This shall be accomplished prior to implementation of the following; which the affected LTO has responsibility for implementing:

(1) those operations listed under the pPlan and

(2) those operations listed under any amendments proposing substantial deviations ~~from the~~ to the approved pPlan.

(b) Inform the responsible RPF or plan submitter, ~~whether~~ either in writing or orally, of any site conditions which, in the LTO's opinion, prevent implementation of the approved pPlan including amendments.

(c) Keep a copy of the applicable approved pPlan and amendments available for reference at the site of active ~~t~~Timber ~~e~~Operations. The LTO is not required to possess

any confidential addenda to the pPlan such as the Confidential Archaeological Addendum, nor is the LTO required to keep a copy of such confidential pPlan addenda at the site of active tTimber oOperations.

(d) Comply with all provisions of the Act, Board rules and regulations, the applicable approved pPlan and any approved amendments to the pPlan.

(e) An LTO shall not be held responsible for Forest Practice Rule violations that result from work required of and/or performed by an RPF, under Board rules, that is determined by the Director to be inaccurate or inadequate. ~~In the event that the LTO executing the plan was not available to attend the on-site meeting to discuss archaeological site protection with the RPF or supervised designee familiar with on-site conditions pursuant to 14 CCR§ 929.2(b) [949.2, 969.2], subsection (b), it shall be the responsibility of the LTO executing the plan to inquire with the plan submitter, timberland owner, or their authorized agent, RPF who wrote the plan, or the supervised designee familiar with on-site conditions, in order to determine if any mitigation measures or specific operating instructions are contained in the Confidential Archaeological Addendum or any other confidential addendum to the plan.~~

(h) Upon receipt of written notice of an RPF's decision to withdraw professional services from the pPlan, the LTO or on-site contact employee shall cease tTimber oOperations, except for emergencies and operations needed to protect water quality, until the LTO has received written notice from the plan submitter that another RPF has visited the pPlan site and accepts responsibility for providing advice regarding the pPlan as the RPF of record.

Note: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code.

Reference: Sections 4524, 4526.5, 4527, 4528.5, and 4570, 4571, and 4581 Public Resources Code.

END RULE TEXT