

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.bof.fire.ca.gov
(916) 653-8007

**Staff Report: Meeting Requirement Inconsistency Between 14 CCR § 1035.2 (as Amended) and § 929.2[949.2, 969.2](b)**

August 1, 2017

In preparing the noticing documents for “RPF and LTO Responsibilities Amendments, 2017”, Board Staff have discovered a potential issue with the rule text, as amended, with regards to meeting requirements between RPFs and LTOs.

Potential Issue

As amended, 14 CCR § 1035.2(a) requires an on-site meeting to occur between an RPF and LTO to occur if requested by either party, but does not require an on-site meeting for any other conditions. This is not entirely consistent with existing regulations of 14 CCR § 929.2 [949.2, 969.2](b) “Protection Measures for Plans and Emergency Notices 3 Acres and Larger”, which require that “The RPF or supervised designee familiar with on-site conditions shall meet with the LTO prior to the start of timber operations at each archaeological or historical site that is described in the plan or notice that requires avoidance or other protection measures...” Though these statements are not explicitly contradictory, there is opportunity for their interpretation to cause confusion surrounding required meetings over archaeological or historical mitigation and avoidance, which has the potential to result in unintended consequences.

Currently within the regulation of § 1035.2, but proposed for deletion through these amendments, language exists to address this meeting requirement as follows:

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)

Because this provision is currently extant in the regulations, maintaining it would not be a substantive change and would be unlikely to cause any significant issues for the current rulemaking effort.

Conclusion

As a potential option, the Board may consider preserving a portion of the existing language to eliminate confusion and maintain consistency throughout the Forest Practice Rules. This is possible with minimal impact to the current rulemaking effort.