**State of California Natural Resources Agency**

**Memorandum**

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| **To:** | Board of Forestry and Fire Protection  Forest Practice Committee  June 18, 2024 | **Date**: June 5, 2024  **Telephone:** 916-203-9755  **Website**:www.fire.ca.gov |
| **From:** | **JOHN RAMALEY, Staff Chief, Forest Practice,**  **California Department of Forestry and Fire Protection (CAL FIRE)** | |
| **Subject:** | **Overlapping Timber Harvesting Documents** | |

The Board of Forestry and Fire Protection’s (Board) Forest Practice Committee has initiated discussion between CAL FIRE, the Board and the regulated public, on the topic of overlapping harvest documents covering the same ground. Recently, CAL FIRE had determined that harvesting exemptions could not be submitted over approved Timber Harvesting Plans (THPs), and this, in part, has led to the recent discussion in committee.

The Department’s ability to enforce the Forest Practice Act and Rules is predicated on the ability of the Department to accurately recognize the responsible parties when Forest Practice violations have been noted. Also, the Department must determine that all elements of a violation have been met prior to issuing a violation notice. This is determined by examining the potential violation in light of the prescriptive standard required for the harvest document in question. When prescriptive standards conflict with each other, such as the limitation of harvesting 10% or less of the standing volume of any given acre on a 14 CCR 1038(b) Dead, Dying, and Diseased Exemption versus what the underlying THP allows, this puts the Department in a difficult situation to sort through the different operators and standards, and apply the appropriate law.

Overlapping harvest documents typically have different Licensed Timber Operators (LTOs) assigned to each document, and in many cases for large property-wide exemptions, there may be five or more LTOs listed on the exemption. This, coupled with the conflicting harvesting parameters that cover each type of harvest document increases the difficulty of enforcement.

Also, once harvest documents start to become layered, the analysis of impacts the Board performs during its regulatory process becomes less meaningful, as the Board does not analyze the layering of harvest documents to accomplish a project, but instead analyzes each exemption as an individual action being applied.

Examples of overlapping exemptions and other issues in 2024 to Date:

* Exemptions overlapping the same type of exemptions - property-wide or tract -wide exemptions being submitted for the new year when the submitter still has between 2 to 4 months left on the previous year’s exemption.
* Exemptions overlapping the same type of exemptions – overlapping similar type exemptions with different LTO’s assigned to the same areas.
* Exemptions overlapping non-similar exemptions – exemptions stacked over each, such as Forest Fire Prevention Exemption (FFPE) and 1038(b) Dead, Dying, and Diseased Exemption. These are done to remove trees larger than allowed amount under an FFPE.
* Exemptions that include lands where the submitters own the timber and not the timberland, however the timberland owner has not signed the exemption.
* Exemptions overlapping THP’s that:
  + Are not active.
  + Include clearcut units with nothing to salvage or any reason to operate on them.
  + Exemptions that are used for excessive mortality, such as 1038(d) Drought Mortality Exemption, being submitted on THPs in which silviculture requires high levels of post-harvest stocking. The submitted exemptions lead to questions on the ability of the approved THP to meet its’ requirements.
  + Property-wide data layers are being utilized that do not always accurately represent the required features, such as watercourse classification.

The Department appreciates the opportunity to discuss these and other examples of the challenges posed by overlapping harvest documents. Questions or comments regarding the content of this memorandum may be directed to Staff Chief, John Ramaley at 916-203-9755 or by email at [john.ramaley@fire.ca.gov](mailto:john.ramaley@fire.ca.gov)