

**State of California
Office of Administrative Law**

In re:
Board of Forestry and Fire Protection

Regulatory Action:

Title 14, California Code of Regulations

Amend sections: 913, 933, 953, 1052, 1052.4

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2019-0731-01

OAL Matter Type: Emergency (E)

This emergency action amends emergency timber harvesting practices to reduce wildfire threat and hazardous fuel conditions.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 8/14/2019 and will expire on 2/11/2020. The Certificate of Compliance for this action is due no later than 2/10/2020.

Date: August 9, 2019



Eric Partington
Senior Attorney

**For: Kenneth J. Pogue
Director**

**Original: Matt Dias, Executive Officer
Copy: Eric Hedge**

Board of Forestry and Fire Protection
Emergency Emergency Fuel Hazard Reduction Amendments, 2019
Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 4,
Subchapter 4, 5, & 6, Article 3;
Subchapter 7, Article 2

§ 913 [933, 953]. Silvicultural Objectives.

The objectives of this article are to describe standard Silvicultural Systems and to provide for alternatives that when applied shall meet the objectives of the FPA (PRC §§ 4512 and 4513). The RPF shall select systems and alternatives which achieve maximum sustained production of high quality timber products.

The THP shall designate one or a combination of Regeneration Methods, prescriptions or Intermediate Treatments described by this article. If a method, prescription, or treatment not defined in the Rules (see 14 CCR § 895.1), is to be used, an Alternative Prescription shall be included in the Plan.

The assessment of maximum sustained production of high quality timber products is based on:

- (a) Regeneration Methods, Intermediate Treatments and prescriptions described in the Rules which establish standards. These methods, treatments, prescriptions, and standards shall not be utilized to permit harvesting of growing stock in a manner that will significantly delay reaching or maintaining maximum sustained production.

1 (b) Published yield tables or other tools which can be validated and which serve as
2 a point of reference for evaluating and selecting Silvicultural Systems and their
3 implementation.

4 (c) The Sustained Yield Plan (SYP). The SYP establishes the flow of forest
5 products from managed Timberlands, and shall demonstrate the achievement of
6 maximum sustained production.

7 (d) An assessment of maximum sustained production of high quality timber
8 products is not required for a harvest ~~designated as, and meeting the definition of~~
9 ~~pursuant to Fuelbreak/defensible space under 14 CCR § 913.4 [933.4, 953.4]~~
10 ~~Special Prescriptions~~ or 14 CCR § 1052.4. Because these lands are designated as
11 defensible space or Fuelbreak areas, the wood production potential of these lands
12 is compatible with the lowest Site Classifications and they shall be considered site
13 IV Timberland for Stocking purposes.

14
15 Note: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference:
16 Sections 4513, 4528, 4551.5 and 4561, Public Resources Code.

17
18 **§ 1052. Emergency Notice.**

19 ****

20 (e) Timber Operations shall not continue beyond 1 year from the date the Emergency
21 Notice is accepted by the Director unless a Plan is submitted to the Director and found
22 to be in conformance with the Rules and regulations of the Board, except for burning
23 operations to treat fuels in accordance with § 1052.4(d)(56) which shall be completed by
24 April 1 of the year following fuel creation.

Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4592, 4750, 4750.3 and 4750.4, Public Resources Code.

§ 1052.4. Emergency Notice for Fuel Hazard Reduction.

The RPF preparing the Notice of Emergency Timber Operations for Fuel Hazard Reduction shall describe the nature of the Emergency and the need for immediate cutting in sufficient detail so that the reason for the Emergency is clear. Emergency Timber Operations, under the presumed Emergency standard of 14 CCR § 1052.1, may be commenced and conducted when in conformance with the following:

(a) RPF develops and documents the vegetative treatments necessary to meet the goals of 14 CCR § 1052.1~~(a)~~(5), and ensures postharvest conditions are in accordance with all subsections in 14 CCR § 1052.4. Such documentation shall include the following:

(1) A description of the preharvest stand structure, ~~and~~ statement of the postharvest stand Stocking levels, and description of postharvest stand structure.

(2) A description of the criteria to designate trees to be harvested or ~~the~~ trees to be retained, including those trees harvested pursuant to 14 CCR § 1052.4(d)(1)(A) and (2).

(3) All trees that are harvested or all trees that are retained shall be marked or sample marked by, or under the supervision of, an RPF before felling operations begin. When trees are sample marked, the designation prescription for unmarked areas shall be in writing and the sample mark area shall include at least 10% of the Harvest Area to a maximum of twenty (20) acres per stand type which is representative of the range of conditions present in the Harvest aArea.

(4) ~~Postharvest compliance shall be determined by the combination of physical measurements and observations. Postharvest compliance shall be met on at least 80% of the Project area as calculated excluding WLPZs and other wildlife protection requirements developed in accordance with 14 CCR § 1052.4(e).~~

(b) The conditions of subsection 14 CCR §§ 1038.1(c)(54) through (1440), and 1038.3(p), are applied ~~or~~ and, for operations in the Lake Tahoe Region Basin, 14 CCR § 1038.1(b) ~~is(f)(1) through (14)~~ are applied.

(c) Geographic area: operations are permitted:

(1) Within one-quarter (1/4) mile from Approved and Legally Permitted Structures that comply with the California Building Standards Code (legal structure). Such legal structures shall be within or adjacent to a community listed in the "California Fire Alliance List of Communities at Risk" (As published April 13, 2019 © 2003 on file in the official rulemaking file and hereby incorporated by reference) and have densities greater than one (1) structure per twenty (20) acres; or

(2) Within five hundred (500) feet of: ~~a legal structure outside the area defined in 14 CCR § 1052.4(c)(1);~~

(A) A legal structure outside the area defined in 14 CCR § 1052.4(c)(1); or

(B) Either side of a federal or Public Road; or

(C) Either side of a private road providing access to legal structures; or

(D) Either side of haul roads suitable for evacuation or fire suppression

with the written concurrence of a Public Fire Agency and determined by

the Director to be consistent with the purpose of the Act and Rules; or

(E) Either side of ridges suitable for fire suppression with the written

concurrence of a Public Fire Agency and determined by the Director to be

consistent with the purpose of the Act and Rules; or

(F) Infrastructure including electrical distribution and transmission facilities, water reservoirs or other conveyances, wastewater facilities or conveyances, communication and data transmission and distribution facilities, or other assets or infrastructure at risk with the written concurrence of a Public Fire Agency and determined by the Director to be consistent with the purpose of the Act and Rules.

~~(3) Within 500 feet of either side of a public or federal road;~~

~~(4) Within 500 feet on either side of a private road providing access to legal structures;~~

~~(5) Within 500 feet on either side of a mainline haul road necessary for fire suppression or evacuation as identified in a fire prevention plan or with the written concurrence of a Public Fire Agency and as accepted by the Director.~~

~~(6) Within 500 feet on either side of ridges suitable for fire suppression as identified in a fire prevention plan or with the written concurrence of a Public Fire Agency and as accepted by the Director.~~

~~(7) Within 500 feet of infrastructure facilities such as transmission lines or towers or water conduits.~~

(d) Vegetation Treatments: Tree removal shall target Codominant and Understory trees.

The residual stand shall consist primarily of well-distributed, healthy and vigorous Dominant and Codominant trees from the preharvest stand. ~~Standards listed shall be met by retaining the largest Diameter trees in the preharvest Project area.~~

~~(1) The quadratic mean Diameter of trees greater than 8 inches dbh in the preharvest Project area shall be increased in the postharvest stand.~~

(1) The following restrictions exist related to the diameter of trees that may be harvested pursuant to this section:

1 (A2) Only trees less than 24 thirty (30) inches ~~outside bark in~~ stump
2 ~~D~~diameter, measured at eight (8) inches above ground level, may be
3 removed except under the following condition: If the goal of fuel reduction
4 cannot be achieved by removing trees less than 24 thirty (30) inches
5 ~~outside bark in~~ stump ~~D~~diameter, measured at eight (8) inches above
6 ground level; trees less than 30~~thirty-six (36)~~ inches ~~outside bark in~~ stump
7 ~~D~~diameter, measured eight (8) inches above ground level, may be
8 removed if that removal is necessary to meet the fuel objectives stated in
9 14 CCR § 1052.1(~~a~~)(5).

10 (B) No trees of the genus *Quercus* that are greater than twenty-six (26)
11 inches outside bark stump diameter, measured at eight (8) inches above
12 ground level, may be removed.

13 (2) Notwithstanding 14 CCR § 1052.4(d)(1)(A) and (B), dead or Dying trees, of
14 any size, may be removed according to the standards of 14 CCR § 919.1 [939.1,
15 959.1], as applicable.

16 (3) (A) The following canopy retention requirements are applicable to Timber
17 Operations conducted pursuant to 14 CCR §§ 1038(f) and 1038.3:
18 Minimum post treatment Canopy closure of Dominant and Codominant
19 trees shall be 40% for east side pine forest types; 50% for coastal
20 redwood and Douglas-fir forest types in or adjacent to communities and
21 legal structures referenced in ~~subsection~~ 14 CCR § 1052.4(c)(1) and
22 (2)(a); 60% for coastal redwood and Douglas-fir forest types outside of
23 communities and legal structures referenced in ~~subsection~~ 14 CCR §
24 1052.4(c)(1) and (2)(a); and 50% for mixed conifer and all other forest
25 types.

(B) The following canopy retention requirements are applicable to emergency Timber Operations conducted pursuant to 1052.4: Minimum post treatment Canopy closure of Dominant and Codominant trees shall be 30% for east side pine forest types; 40% for coastal redwood and Douglas-fir forest; and 40% for mixed conifer and all other forest types.

~~(B) Post treatment stand shall contain no more than 200 trees per acre over 3 inches in dbh.~~

~~(4) Stocking shall meet commercial thinning requirement of 14 CCR § 913.3 [933.3, 953.3] immediately upon completion of operations.~~

~~(A) In the High Use Subdistrict of the Southern Forest District where preharvest tree Stocking does not meet commercial thinning requirement of 14 CCR § 953.3, the basal area minimum Stocking Standards for Selection Unevenaged Management in 14 CCR § 953.2(a)(2)(A)1., 2., and 3., shall be met following harvesting.~~

~~(B) In areas where preharvest tree Stocking does not meet commercial thinning requirement of 14 CCR § 913.3 [933.3, 953.3], and as necessary to establish or maintain an unevenaged stand structure, minimum Stocking Standards for Selection Unevenaged Management in 14 CCR §§ 913.2 [933.2, 953.2](a)(2)(A)1., 2., 3. and 4., shall be met following harvesting.~~

(54) (A) ~~This subsection applies to geographic areas listed in 14 CCR § 1052.4(c)(2) and (6), and to areas within 500 feet of structures in 14 CCR § 1052.4(c)(1). Surface and Ladder Fuels in the Harvest Area, including logging Slash and Woody dDebris, brush, small trees, and deadwood, that could promote the spread of wildfire shall be treated to achieve standards~~

for vertical spacing between fuels, horizontal spacing between fuels,
maximum depth of dead ground Surface Fuels, and reduction of standing
dead fuels, as follows:

1. Ladder and Surface Fuels, excluding residual stand Dominant
and Codominant trees and any dead branches on those trees, shall
be spaced to achieve vertical clearance distance of eight (8) feet or
three (3) times the height of the postharvest fuels and vegetation,
excluding Dominant and Codominant trees, whichever is the
greater distance, measured from the base of the live crown of the
postharvest Dominant and Codominant trees to the top of the
sSurface or Ladder Fuels or vegetation, whichever is taller.

~~2. Ladder Fuels, excluding residual stand Dominant and
Codominant trees, shall be spaced to achieve horizontal clearance
distance of two to six times the height of the postharvest fuels
measured from the outside branch edges of the fuels. On ground
slopes of 0% to 20% horizontal clearance distance shall be two
times the height of postharvest fuels; on ground slopes of greater
than 20% to 40% horizontal clearance distance shall be four times
the height of postharvest fuels; on ground slopes of greater than
40% horizontal clearance distance shall be six times the height of
postharvest fuels.~~

23. Dead Surface Fuel depth shall be less than 9 inchesAdditional
fuel treatment standards are as follows:

a. Within one hundred fifty (150) feet of those structures
identified within 14 CCR § 1052.4(c)(1) and (c)(2)(A), all dead

1 Surface Fuels that could promote the spread of wildfire, including
2 Slash or Woody Debris, and brush, shall be chipped, burned, or
3 removed within forty-five (45) days from the start of Timber
4 Operations.

5 b. Except for those areas described in provision a. above, all
6 dead Surface Fuel, including Slash or Woody Debris, and brush,
7 within the Harvest Area, shall be treated to a depth of less than
8 nine (9) inches.

9 ~~4. Standing dead or Dying Trees and brush shall generally be~~
10 ~~removed. Such material, along with live vegetation associated with~~
11 ~~the dead vegetation, may be retained for wildlife habitat when~~
12 ~~isolated from other vegetation.~~

13 ~~(B) This subsection applies to geographic areas listed in 14 CCR §~~
14 ~~1052.4(c)(3), (4), (5), and (7) and to areas between 500 feet to 1320 feet~~
15 ~~of structures in 14 CCR § 1052.4(c)(1).~~

16 ~~1. Dead fuels, excluding dead branches on trees retained for~~
17 ~~Stocking, shall be treated to achieve a minimum clearance distance~~
18 ~~of 8 feet measured from the base of the live crown of the~~
19 ~~postharvest Dominant and Codominant trees to the top of the dead~~
20 ~~fuels.~~

21 ~~2. All logging Slash created by the Timber Operations shall be~~
22 ~~treated to achieve a maximum postharvest depth of 9 inches above~~
23 ~~the ground.~~

24 (B) Postharvest compliance shall be determined by the combination of
25 physical measurements and observations. Postharvest compliance shall

1 be met on at least 80% of the Project area as calculated excluding WLPZs
2 and other wildlife protection requirements developed in accordance with
3 14 CCR § 1052.4(g).

4 (C) The requirements of this subsection shall not supersede requirements
5 of PRC § 4291.

6 (65) Fuel treatments shall include chipping, removal or other methods necessary
7 to achieve the fuel hazard reduction standards in this section, and,
8 notwithstanding the requirements of 14 CCR § 1052.4(d)(4)(A)2.a., shall be
9 accomplished within one (1) year from the start of operations, except for burning
10 operations, which shall be accomplished by April 1 of the year following Surface
11 Fuel creation.

12 (e) Consistent with 14 CCR § 913 [933, 953] (d), as applicable, Stocking shall meet the
13 resource conservation standards for minimum Stocking within 14 CCR § 912.7 [932.7,
14 952.7] (a)-(c), as applicable, immediately upon completion of Timber Operations.

15 (ef) As part of the preharvest Project design, the RPF shall ~~evaluate and~~ incorporate
16 habitat requirements for fish, wildlife and plant Species in accordance with ~~sections~~ 14
17 CCR §§ 898.2, 916.9 [936.9, 956.9] and 919 [939, 959] et seq. Such evaluations shall
18 include use of the California Natural Diversity Database (as referenced by the CDFW,
19 <https://www.wildlife.ca.gov/Data/CNDDDB>) and local knowledge of the Planning
20 Watershed. Consultation with CDFW personnel is recommended. Examples of habitat
21 requirements to be incorporated into the Project include retention of large Woody Debris
22 and Snags congruent with Emergency condition goals, and vegetative screening for
23 wildlife cover and visual aesthetics.

1 ~~(f) Operations conducted concurrently in the same geographic area (ref. 14 CCR §~~
2 ~~1052.4(c)) pursuant to 14 CCR § 1038(b) shall not remove Diseased Trees in excess of~~
3 ~~the Diameter limit required under 14 CCR § 1052.4(d)(2).~~

4
5 Note: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources
6 Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 21001(f) and
7 21080(b)(4), Public Resources Code.