

**BOARD OF FORESTRY AND FIRE PROTECTION**

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January 7, 2020

**MEMORANDUM**

TO: Regulatory Workshop  
FROM: Board Staff  
SUBJECT: Matters Requiring Additional Discussion or Action for “Emergency Fuel Hazard Reduction Amendments, 2019”

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On July 18, 2019, the Board approved the findings of Emergency and adopted the rulemaking entitled “Emergency Fuel Hazard Reduction Amendments, 2019.” This emergency regulatory action became effective on August 14<sup>th</sup>, 2019 and will remain in effect until February 11, 2020, at which time the Board will have the option to re-adopt the emergency regulations, resulting in an additional effective period of 6 months. Ultimately, for this regulatory scheme to remain effective, the Board must adopt permanent regulations, or the Emergency regulations will expire and the regulatory scheme that was in existence prior to emergency rulemaking will remain in effect.

Pursuant to the Administrative Procedures Act, the Board is compelled to demonstrate pursuit of permanent rulemaking in response to the Emergency Adoption of regulations. In doing so, the Forest Practice Committee engaged in discussion at the September 24, 2019, November 6, 2019, and December 10, 2019 committee meetings on outstanding issues that the Board committed to further investigate during permanent rulemaking efforts. The following committee comments, as provided below, were provided in response to discussion on the following outstanding matters.

**1. Separate canopy retention standards for plantations**

Comments were offered by stakeholders and members of the Board that the canopy standards, as amended, may not be appropriate in plantations. Comments indicated that this issue was particularly acute when measured against all other regulatory metrics that must be complied with (i.e., diameter limits, retention of hardwoods, treatment of ladder fuel, and minimum stocking). Some commenters expressed concern that further reduction of canopy standards may impact other resource values.

- **Committee Review:** The full Board committee commented that it may be worthwhile to create separate canopy retention standards for stands with smaller diameters, in order to address potential issues with the number of trees which would be required for retention not addressing the goals of the specific Emergency Notice.
- **Staff recommendation:** Use average residual stand diameter in order to establish a point at which canopy retention standards may be reduced or eliminated, and retention would be based on other established requirements, such as basal area, diameter limits, or limits on the cutting of oaks.
  - **Solicit feedback from technical experts on appropriate canopy retention standards based on fire behavior and surface fuel treatment requirements.**

## **2. Available windows for required fuel treatments**

The concern expressed is one of timing as it relates to completion of fuel treatment of Ladder Fuels, Surface Fuels, brush, Slash and Woody Debris. 14 CCR 1052.4(d)(5) states that all fuel treatments, notwithstanding burning operations or fuel treatments within 150 feet of structures, shall be completed one year from the start of timber operations.

- **Committee Review:** The Forest Practice Committee commented that this issue is one that warrants additional discussion and that the issue of timing should be addressed in a manner that provides flexibility for the treatment of post-harvest accumulation of Ladder Fuels, Surface Fuels, brush, Slash and Woody Debris. Additionally, the issue of the challenge of meeting the 9 inch post-harvest fuel depths was also raised as it relates to not only treatment timing, but also treatment costs. Furthermore, discussion occurred surrounding difficulties in achieving burning operations within the regulatory timing windows.
- **Staff recommendation:** Solicit comment from technical experts to describe current understanding of fuel treatment effects on fire behavior.
- **14 CCR § 1052.4(d)(B) – Post-harvest fuel treatments “shall be met on at least 80% of the Project Area.”**
  - The percentage of treatment area, or the manner in which the percentage is met could be revised. Perhaps the percentage could be revised to a value less than 80% or the standard could apply to fuels depths, rather than a geographic area.
  - The term “Surface Fuels” could be replaced with “Slash and Woody Debris.”
- **14 CCR 1052.4(d)(5) Timelines for completion of burning fuel treatments or could be revised to allow for burning to occur within a pre-planned prescribed burning operation at a later date (see revised rule text page 8, lines 18-24), or to make burning requirements consistent with 14 CCR § 1038.3(c)(6) (see revised rule text page 9, lines 1-7).**