

Forest Practice Committee (FPC)

The mission of the FPC is to evaluate and promote an effective regulatory system to assure the continuous growth and harvesting of commercial forests and to protect soil, air, fish and wildland, and water resources.

January 22, 2020

COMPLETED OR SUBSTANTIALLY COMPLETED IN 2019:

1. Report on Exemptions and Emergencies as Required by Public Resources Code (PRC) § 4589:

***Status:** The Exemption-Emergency Notice pilot monitoring project was recently completed and the initial draft report was completed in May, 2019. The Forest Practice Committee reviewed the draft report and provided a venue for both public and agency comment on the draft report. The report was approved by the Board, but was not submitted to the legislature due to revisions of legislative reporting dates provided in PRC § 4589 by SB 901.*

A second iteration draft report that provided findings associated with data collected on Emergency Notices was provided to the Forest Practice Committee in November 2019. The Forest Practice Committee reviewed the draft report and provided a venue for both public and agency comment on the draft report. Several revisions to the draft report were made based on input received from the Forest Practice Committee and other stakeholders. This iteration of the report was approved by the Board on December 30, 2019 and will be submitted to the legislature as required by PRC § 4589.

2. Exemptions (14 CCR § 1038 et. seq.)

***Status:** SB 901 chaptered significant revisions to PRC § 4589, which required significant revision of the Board's regulations provided for in 14 CCR 1038 et. seq. The Board was authorized to adopt these revisions to the Forest Practice Rules as an Emergency rulemaking pursuant to the Administrative Procedure Act (APA). The amendments restructured and modified several of the Board's existing regulatory exemptions to the Forest Practice Act (FPA). The amendments included the addition of the new Small Timberland Owner exemption, intended to provide regulatory relief for small, nonindustrial landowners. Additional amendments included conditional allowances for the construction of up to 600 feet of temporary road under the Forest Fire Prevention Exemption, as well as the standardization of many of the other conditional requirements of previous exemptions. The amendments were adopted as emergency regulations in January of 2019 and became permanent upon filing in February of 2019.*

3. Review of Emergency Notice for Fuels Hazard Reduction (14 CCR § 1052.4)

***Objective:** Review the regulations for the Emergency Notice for Fuels Hazard Reduction. Specifically, address the issues of canopy closure, surface fuels, and*

allowable geographic locations with respect to fuels reduction and fire prevention efforts. Address how to improve clarity related to canopy standards, clearance standards, and QMD standards.

Status: *Regulations titled “Emergency Emergency Fuel Hazard Reduction Amendments, 2019” were adopted as emergency regulations in August of 2019. They were intended to clarify and simplify the Emergency Notice for Hazard Fuel Reduction exemption within the FPRs to encourage greater use of the specific Emergency Notice process and to improve the effectiveness of hazardous fuel removals by landowners in strategic areas. The Board is currently engaged in the process of permanent rulemaking on this topic and will likely have updated permanent regulations filed with the Secretary of State in 2020.*

4. Working Forest Management Plan

Status: *Changes were originally adopted as emergency regulations in accordance with SB 901. They provided clarifying changes to ensure compliance with amendments to the FPA within SB 901 of statutes related to WFMPs. The amendments allowed multiple landowners to join together to submit a single WFMP, reduced the number of acres within a single WFMP to 10,000, required the harvest area to be within a single defined hydrologic area, and clarified requirements for road construction and erosion control. They were adopted as emergency regulations in January of 2019 and became permanent upon filing in February, consistent with SB 901.*

5. Non-Industrial Timber Management Plan (NTMP) Review:

Objective: *Ongoing review of the regulatory standards associated with the NTMP, including CAL FIRE’s Draft NTMP Growth and Yield Guidelines document posted on CAL FIRE’s website. This guidance document is currently in use by CAL FIRE Plan review personnel. Additionally, the following issues associated with a Notice of Timber Operations may be addressed:*

- *Consider requiring the inclusion of the number of acres proposed for harvest along with the required legal description on a submitted NOP. (Department of Tax and Fee Administration (formerly BOE) request).*
- *Consider requiring the mapped location of each ownership if multiple ownerships are being harvested under the same NOP. This applies to all Plans and Exemptions. (Department of Tax and Fee Administration (formerly BOE) request).*

Status: *The Board adopted NTMP Amendments in September of 2019. They were submitted to OAL in October, and took effect on January 1, 2020. Sections of the Forest Practice Rules relating to NTMPs were updated to provide clarity, reflect modern mapping standards and technologies, and make them consistent with recently passed legislation (SB 901). Notably, the amendments made explicit that multiple small*

landowners may participate in one NTMP and that one agent may be designated as a single point of contact for all landowners involved. Certain exemptions are also made permissible within the footprint of an NTMP.

Priority 1 for 2020:

1. Review of Forest Practice Northern Spotted Owl (NSO) Rules:

Objective: *The FPC recommended publication of a 45 Day Notice of Rulemaking for the “Activity Center Definition” rule proposal in 2013. The Board subsequently authorized the publication of the 45 Day Notice. However, publication was postponed as the Fish and Game Commission considered a petition requesting in state listing of NSO. The Commission accepted the petition and has determined that state listing for the NSO is warranted.*

Status: *The FPC discussed the issue of NSO extensively during the second half of 2018. The Committee received presentations from a variety of individuals such as Ken Hoffman (USFWS) who spoke about NSO biology, and Mandy Culpepper (CDFW) who spoke about scoping sessions that CDFW has performed with affected landowners. Additionally, the Board held its September meeting in Yreka, CA with the specific intent of seeing NSO issues first hand via a field tour of NSO habitat areas on industrial and non-industrial lands. Many issues were raised by industrial landowners, non-industrial landowners, Board members, and members of the public. Staff Biologists from CDFW and the USFWS helped answer questions and facilitate the discussion during the tour of a variety of Siskiyou County timberlands. These discussions have culminated in an attempt to develop a well-defined problem statement related to NSO and possible courses of action to address this problem statement.*

In 2019 the USFWS has engaged in revising Attachments to the No-Take Guidelines for NSO and is also working on developing a Safe Harbor Agreement for NSO. CAL FIRE and CDFW are also working on the development of a Spotted Owl Resource Plan for a geographically distinct portion of northern California. Upon the completion of these projects, the Board will continue discussions of NSO and contemplate updating regulations to reference new management opportunities.

2. 14 CCR § 1034, Contents of Plan:

Objectives:

- *14 CCR § 1034(r): How are the requirements of 14 CCR § 1032.7(f) to be met? The reference to 1032.7(f) is obsolete, since it refers to the past requirement that the RPF distributes and publishes a copy of the NOI.*
- *14 CCR § 1034(x)(7): On a plan map, show the location of all crossings of classified watercourses except temporary crossings of Class III watercourses without flowing water during timber operations. The Board should consider*

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revising 1034 to make Class III watercourse crossings a required mapping feature within a Plan.

- *The Board should consider amending 14 CCR § 1034 when it adopts or amends any rule that adds elements that are considered a required portion of a harvesting plan. This ensures a central location where the RPF can find essential information that must be included in a harvesting document. The Board may want to consider a rule package that consolidates all required plan contents under 14 CCR §§ 1034, 1051, 1090.5, and 1092.09.*
- *The Board received a comment in response to its Annual Call for Regulatory Review that expresses concern over a lack of proper proof of ownership on Timber Harvest Plans or other harvesting permits. Parcel numbers or other proofs of ownership are not generally required but may assist in long-term tracking of ownerships, as well as inspection and enforcement.*

Status: *No reportable actions were made on this topic in 2019.*

3. Expanded Allowance for Use of Ground-Based Harvest Equipment:

Objective: *Review existing Forest Practice Rules related to limitations on the use of ground-based log yarding equipment to improve antiquated language and allow the rules to be more responsive to recent developments in technology. Address code sections for potential amendments; these sections may include, but are not limited to:*

- *14 CCR § 913.1 (a) (2) – tractor yarding acreage limitations.*
- *14 CCR § 914.3 (e) – tractor use limitation in cable yarding areas*
- *14 CCR § 916.5 – reduced WLPZ widths for cable yarding*

Status: *The Committee added this item to their priorities list in January, 2019.*

4. Watercourse and Lake Protection Rule Review (14 CCR § 916):

Objectives:

- *Should mechanical feller-bunchers be classified as "heavy equipment" in WLPZs?*
- *Mapping of Class III Watercourse crossings. Language in 14 CCR §§1034(x)(7) and 916.4 [936.4,956.4] needs to be considered and potentially reconciled for purposes of consistency.*
- *Review the necessity and utility of assessing and mapping standards of 14 CCR § 916.4 for spawning and rearing habitat for anadromous salmonids.*

Status: *The Board approved for publication the white-paper titled "Partial harvest in Watercourse and Lake Protection Zones Using Low Ground Pressure Equipment to Support Fire Resilient, Ecologically Diverse Stands and Associated Ecosystem*

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Services”, to assist CAL FIRE and responsible review Agencies in making determinations regarding proposed use of ground-based equipment within WLPZ. The Board may continue to address other issues as necessary.

PRIORITY 2 FOR 2020:

1. Review the Regulatory History, Implementation, and Future of 14 CCR § 916.11; Monitoring for Adaptive Management in Watersheds with Coho Salmon:

Objective: *The Rule requires the Board to develop a monitoring and adaptive management program for timber harvesting operations in watersheds with coho salmon. Multiple purposes for this program are stated within the Rule. The Board has since established a new science-based, multi-stakeholder, and multi-disciplinary Effectiveness Monitoring Committee (EMC) for the purpose of reviewing the efficiency and effectiveness of the Board’s Forest Practice Rules relative to forestry and environmental protection, including the protection of watershed resources critical to listed species such as coho salmon. The FPC will review the history and requirements of 14 CCR § 916.11 to ensure the mission and activities of the EMC adequately address the purposes stated for this Rule and will determine if any additional specific Board action is necessary.*

Status: *No reportable actions were made on this topic in 2019.*

2. 14 CCR § 913.4(d) - Variable Retention Silviculture:

Objective: *Several questions have been raised regarding implementation of this Special Prescription: (1) Should the Variable Retention regulation specify a minimum re-entry period for designated retention areas?; (2) Should the current regulation require a minimum stand age necessary for harvest to occur in order to demonstrate maximum sustained production (MSP) as is required for even-age silviculture under 14 CCR § 913.11(c)?; and (3) Are the minimum stocking requirements of CCR § 913.4 (d)(3)(H) relative to aggregate versus dispersed retention clear enough for consistent application and enforcement?*

Status: *No reportable actions were made on this topic in 2019.*

PRIORITY 3 FOR 2020:

1. 14 CCR § 913.2 (b) – Transition Silviculture:

Objective: *It has been reported that CAL FIRE does not allow use of the Transition silviculture method in timber stands which were most previously harvested utilizing the Selection method. This ‘policy’ is not consistent with 14CCR § 913.2(b) or (b)(2). THP was returned on this issue without being evaluated through PHI to support the determination.*

Status: No reportable actions were made on this topic in 2019.

2. 14 CCR § 1054.8 – Order of the Board:

Objective: CAL FIRE has requested that the Board consider amending this rule section for purposes of obtaining consistency with PRC § 4582.7(d) and 14 CCR § 1037.6. Additionally, CAL FIRE has requested that the Board take into consideration the lack of consistency between PRC § 4582.7(d) and 14 CCR § 1037.6 with current CEQA Guidelines and case law as they pertain to re-circulation of a Plan with substantial new information.

Status: No reportable actions were made on this topic in 2019.

3. 14 CCR § 1032.7(d) and 14 CCR § 1092.04(d) [in part]:

“A Notice of Intent shall include the following information:

- (4). The acres proposed to be harvested.*
- (5). The regeneration methods and intermediate treatments to be used.”*

Objectives:

(4) The Board should amend this paragraph to include all acres where timber operations will occur, not just the area where timber will be harvested. In doing so, the Board should consider the current definition of logging area and the lack of a definition of plan area.

(5) Requires stating the regeneration methods and intermediate treatments to be used. This paragraph may not capture all possible treatments that may occur, e.g., special prescriptions and other types of associated timber harvesting, such as road right-of-way or timberland conversion.

Status: This item was initially addressed by the Management Committee in 2010 in the form of a rule proposal to amend the NTMP NTO requirements. The item was remanded to the Management Committee following publication of a 45-day Notice of Rulemaking in December 2010 and initial hearing in February 2011. No further action was subsequently taken. No reportable actions were made on this topic in 2019.

4. Regulatory Amendments to 14 CCR § 1032.10 – Request for Domestic Water Supplies:

“The THP submitter shall provide notice by letter to all other landowners within 1,000 feet downstream of the THP boundary whose ownership adjoins or includes a Class I, II, or IV watercourse(s) which receives surface drainage from the proposed timber operations. The notice shall...”

Objectives: CAL FIRE has requested the following items be potentially addressed regarding Notice of Timber Operations:

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- *Overland flow or channel flow.*
- *Publication may need to be given in a newspaper of general circulation. CAL FIRE assumes this requires notification as defined in Government Code §§ 6000-6027.*
- *A tie should be made with the requirement to provide protection to domestic water supplies, as required per 14 CCR § 916.10 [936.10, 956.10].*
- *Require more current notification in which the post-marked date is no more than one year prior to submittal of the plan.*
- *Does a plan have to be returned if the RPF requests an exemption from one of the noticing requirements and CAL FIRE does not accept the request? The rule requires at least ten days passing after notification before submission of the plan.*

Status: *No reportable actions were made on this topic in 2019.*

5. Definitions for Site Survey Area and Logging Area (14 CCR § 895.1):

Objective: *CAL FIRE has archaeological or historical sites along appurtenant roads that are not specifically associated with the commercial harvesting of forest products, but are associated with operations such as road construction, re-construction or maintenance. Considering these findings, CAL FIRE has requested a review of the definitions of Site Survey Area and Logging Area, balanced against the definition of timber operations in PRC § 4527, to address the issue of potential impacts to archaeological resources located along appurtenant roads where commercial harvesting is not occurring.*

Status: *No reportable actions were made on this topic in 2019.*

6. Archaeological Training (14 CCR § 929.4 [949.4, 969.4]):

Objective: *CAL FIRE indicates that existing Board regulations are not clear in terms of when a 5-year refresher training course for identification and protection of archaeological resources must be completed. It is recommended to review the existing rule to determine if further regulatory clarity could be achieved.*

Status: *No reportable actions were made on this topic in 2019.*

7. Board Policy Review:

Objective: *The Board currently has many policies in place, some dating back decades. The Board aspires to review and contemporize all policies and make them available to the public via the Board's website. Board policies cover a myriad of topics; committee assignment of this ongoing policy review will be based upon the subject matter of the individual policy under review.*

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Status: *Continuously ongoing.*