

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.

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COMPLETED OR SUBSTANTIALLY COMPLETED IN 2020:**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. Fuel Hazard Reduction Emergency Notice

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: *Permanent regulations titled “Fuel Hazard Reduction Amendments, 2020” were adopted by the Board on July 15, 2020 which were intended to increase the utilization of the regulatory permitting process of the Emergency Notice for Fuel Hazard Reduction of 14 CCR § 1052.4 in order to address the hazardous conditions across forested lands throughout the state, as well as to improve the efficacy of vegetative treatments in addressing the existing problem of hazardous fuel conditions within this process. The regulations were submitted to the Office of Administrative Law (OAL) on July 23, 2020. The regulations were approved by OAL on September 17, 2020 and will become effective January 1, 2021.*

3. Tethered Operations

Objective: Evaluate the use of mechanized steep slope harvesting equipment and the interface of this equipment and existing forest practice regulation. Assess uses and potential limitations of the equipment and the role it may play in the future of timber harvesting throughout the state.

Status: The Board adopted permanent regulations titled “Tethered Operation Amendments, 2020” on September 23, 2020 which were intended to provide for the implementation of specific tethered logging systems for in use timber operations and to clarify what manner of system is intended for such use in those operations. The rule package additionally improved the clarity and consistency of certain existing regulations related to harvesting practices and erosion control by using modern and defined terminology and regulations, eliminated redundancy within existing regulations, and provided for appropriate disclosure in order to support the enforcement of those purposes described above. The regulations were submitted to OAL on September 29, 2020, approved on November 10, 2020, and will become effective January 1, 2021.

4. 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 developed a white paper titled “Partial Harvest in Watercourse and Lake Protection Zones Using Low Ground Pressure Zones Using Low Ground Pressure Equipment to Support Fire Resilient, Ecologically Diverse Stands and Associated Ecosystem Services” in order to provide guidance to land managers and review agencies to present the scientific basis for allowing harvest using low ground pressure equipment in WLPZs under appropriate site conditions and with best management practices applies. The Board approved of the document in early 2020 and the white paper has been distributed to those relevant parties.

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 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.*
- *The Board should consider adopting regulatory standards for digital mapping submission requirements in timber harvesting documents, including geospatial data, LiDAR, or other remote sensing systems.*

Commented [HE1]: Richard Gienger #5

Status: *The Committee began discussion on this item in January 2020, but logistical demands imposed by the COVID-19 situation saw the item removed from further agendas.*

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

Objectives:

- *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.*
- *Consider revision of 14 CCR § 916.4[936.4. 956.4] to incorporate stream and watershed restoration standards.*

Commented [HE2]: Richard Gienger #4

Status: *No reportable action in 2020.*

5. Addition of Botanical Resource Considerations to the Forest Practice Rules

Objective: *CDFW requests that the Board prioritize strengthening the Forest Practice Rules to include specific rules for botanical resources. CDFW initially made this request to the Board in November 2018, and it was further supported by a related presentation at the May 2019 Board meeting in Chico.*

The Forest Practice Rules contain no botany-specific regulations. Instead, the timber harvesting process relies on guidance documents written by CDFW and CAL FIRE to fill in the regulatory gaps. The omission of scoping, mitigation, and management practices for botanical resources creates regulatory uncertainty and results in avoidable impacts to these resources. Augmenting the Forest Practice Rules would provide clear direction to applicants prior to plan submittal, reduce plan review time, and lead to more flexible management strategies for these resources. CDFW is ready to collaborate with the Board and stakeholders to develop rules for the disclosure and protection of California's botanical resources.

Status: The Committee began exploration of this topic and is in the process of refining the problem statement on the issue. The Committee will continue work on the issue into 2021.

6. Clarification of apparent conflict between Emergency Notice lifespan and slash treatment deadlines in 14 CCR 1052(e) and 1052.4(d)(5)

Commented [HE3]: CAL FIRE #4

Objectives: The Emergency Notice for Fuel Hazard Reduction allows for Timber Operations to occur for only 1 year from the date of acceptances, notwithstanding the allowance for burning operations to occur by April 1 of the year following creation. However, 14 CCR 1052.4(d)(5) states in part, "Fuel treatments...shall be accomplished within one (1) year from the start of operations..." This language appears to indicate, at least where slash treatment is concerned, the lifespan of an Emergency Notice is 12 months from the start of operations rather than 12 months from the date it is accepted by the Director.

Status: The Committee has not begun deliberation on this item.

PRIORITY 2 FOR 2021:

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 2020.

2. Issues of Basal Area and Retention within Existing Silvicultural Standards:

Objective: Several questions have been raised regarding the suitability of the existing forest practice rules addressing current empirical understanding of various elements, including the relationship between forest spatial arrangement, or temporal variables and various aspects of forest health and other ecological systems. Regarding Variable Retention: (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? Additionally, 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 14 CCR § 913.2(b) or (b)(2). A THP was returned on this issue without being evaluated through PHI to support the determination.

Status: A working group was convened in to examine these various issues and is currently collecting information on the topics for the development of a future problem statement.

3. Consideration of Repeal of 14 CCR 917.4(d) Prohibition of Broadcast Burning for Slash Treatment in the Southern Subdistrict of the Coast Forest District and Amendment of 917.3

Objectives: Broadcast burning of logging slash can be a useful treatment option for reduction of slash and associated fire hazard. It is prohibited in the Southern Subdistrict of the Coast Forest District but is an allowable practice throughout much of the rest of the state. Prescribed broadcast burning would otherwise be allowable in the Southern Subdistrict under the CalVTP EIR outside of timber harvesting operations. The intensity of the 2020 CZU Lightning Complex that burned in portions of San Mateo and Santa Cruz within the Southern Subdistrict has forestry practitioners there discussing whether broadcast burning prior to the wildfire could have reduced fuel loads sufficiently to significantly moderate the intensity and impact of that fire.

Status: The Committee has not begun deliberation on this item.

4. Consistency Between Sections 1080 and 913.8

Objectives: Between these two provisions (14 CCR §§ 895.1 and 913.8), there exists an issue of clarity and consistency regarding what stocking requirements apply on Substantially Damaged Timberlands within the Southern Subdistrict of the Coast Forest District. Special Harvesting Methods in the Southern Subdistrict includes an exclusive list of stocking requirements, however the definition for and provisions of Substantially Damaged Timberland allow for stocking standards which are not included within the exclusive list in 14 CCR § 913.8

Status: The committee has not begun deliberation on this item.

5. Challenges Associated with Discretionary Elements in Ministerial Projects

Commented [HE4]: Cal Fire #1`

Commented [HE5]: Cal Fire #3

Commented [HE6]: Cal Fire #6

Objective: Exemptions and Emergency Notices are ministerial notices accepted by the Department that are bound by prescriptive standards for protection of natural and cultural resources. The Department has a short timeframe in which to conduct a ministerial review of the notices and determine whether or not to accept them. Despite their ministerial nature however, not every notice is devoid entirely of a discretionary element. In certain instances, there are also rule standards for these notices that direct or imply discretion by the Department.

Status: The Committee has not begun deliberation on this item.

PRIORITY 3 FOR 2020:

1. 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 2020.

2. 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:

- 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 2020.

3. Review of Regulations pertaining to Archaeological Training, Identification and Protection of Sites (14 CCR § 929 et seq.)

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 rules to determine if further regulatory clarity or protection of these resources could be achieved.

Additionally, 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 2020.

4. 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.

Status: *Continuously ongoing.*

