

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.

COMPLETED OR SUBSTANTIALLY COMPLETED IN 2020:

1. Santa Cruz Weekend Emergency

Objective: To extend the allowed days of operation of chainsaws and other power-driven equipment within, and the hauling of forest products from, Timberland affected by the CZU Lightning Complex Fire of 2020 in Santa Cruz and San Mateo Counties in response to requests from those counties, as well as timber operators in those counties.

Status: The Board responded to requests from these stakeholders to provide temporary regulatory relief to facilitate fire cleanup efforts through the adoption of emergency regulations in May of 2021 to extend allowable periods of timber operations in these counties to include Saturdays and Sundays. These regulations were submitted to the Office of Administrative Law (OAL) on May 21, 2021 and became effective on May 26, 2021. The regulations will expire on March 22, 2022.

2. Southern Subdistrict Broadcast Burning Amendments

Objective: Review existing regulations related to Broadcast Burning, specifically its prohibition in the Southern Subdistrict of the Coast Forest District and consider lifting the prohibition in order to provide more flexibility for fuels treatment and hazard reduction in this geographic region.

Status: The Board adopted permanent regulations titled "Southern Subdistrict and Broadcast Burning Amendments" on September 22, 2021 which were intended to provide an opportunity to utilize Broadcast Burning, for any purpose, within the Southern Subdistrict, as well as to develop a regulatory scheme related to the reduction of hazardous forest fuels generated by timber operations, both statewide and specific to the Southern Subdistrict of Coast Forest District, which is clear and effective. The regulations were submitted to OAL on October 8, 2021 and are anticipated to become effective on January 1, 2022.

3. Emergency Notice RPF Amendments:

Objective: The December 23, 2019 "Report On Emergency Notice Of Timber Operations Monitoring Results And Exemption Notice Use" identified sites of surface erosion and sediment delivery which resulted from Emergency Notice Timber Operations. The report indicated that Forest Practice Rule non-compliance and the lack of RPF involvement in those operations may have been contributing factors to those sites. The Committee reviewed these findings and associated regulations for opportunities to improve operational outcomes

and overall compliance in Emergency Notice Timber Operations.

Status: The Board adopted emergency regulations titled "Emergency RPF responsibilities" to modify existing Emergency Notice processes to address the current needs for improved compliance with the Rules in all Emergency Notice timber harvests. The rulemaking requires the Timber Owner or operator retain an RPF to provide professional advice and that the RPF be present on site at a sufficient frequency to know the progress of operations and advise the Timber Owner or LTO. The increased presence of the RPF and subsequent increase in compliance and implementation of the Rules was intended to avoid impacts to water quality resulting from non-compliance. The rulemaking additionally addressed potential inadequacies of fuel treatment timelines and wildfire risks in the Emergency Notice for Fuel Hazard Reduction. The emergency regulations were adopted by the Board in July, 2021, submitted to OAL on July 29, 2021, and were approved on August 5, 2021. The Board continues to work on permanent rulemaking on this issue

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 recommended rule text for Board consideration in November 2021 and the Board anticipates effective regulations by January 2023.

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.

Currently, CAL FIRE, CDFW, and USFWS are developing tools to assist timberland owners with conserving NSO and their habitat. The Forest Management Task Force's "California's Wildfire and Forest Resilience Action Plan" requires the Board to assist in this effort through the development of a strategy to incorporate the management of barred owl intrusion into spotted owl habitat.

Status: The FPC discussed the issue of NSO extensively during the second half of

Commented [HE1]: 2021 Comments Received on this issue:
Mark Jameson

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.

Status: The Board continues to gather information related to this issue but has not begun to address barred owl intrusion as of 2021.

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.

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 watershed restoration standards.
- Consider examination of watercourse protections and potential new rules that allow for vegetative fuel reduction, mosaic vegetation patterning, scarified soil created by machinery and fuel discontinuity to better protect watercourse related resources during fire events.

Commented [HE2]: 2021 Neil Fischer, Collins Pine, comment

Status: No reportable action in 2021.

4. 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 evaluated several options for addressing this issue in 2021, including potential rulemaking, and has chosen to pursue the creation of a guidance document in order to the evaluation of botanical resources within the existing THP creation and review process.

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 2021.

2. Challenges Associated with Discretionary Elements in Ministerial Projects

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 recommended rule text for Board consideration in November 2021. The Board has begun formal rulemaking on this issue and expects effective regulations January 1, 2023.

3. 14 CCR § 915.4 [935.4, 955.4] Site Preparation Addendum [All Districts]

Commented [HE3]: 2021 CAL FIRE Comment #2

Objective: At least one CAL FIRE Unit has identified the concern that certain Site Preparation Addendums drafted by RPFs are not consistent with the definition of "Site Preparation" in 14 CCR § 895.1. This has caused some timberland owners and RPFs to believe that silviculture objectives may be achieved by Timber Operations after the harvest document has expired. It is difficult for a CAL FIRE Forest Practice Inspector to enforce the Forest Practice Rules on an expired harvest document. Completion reporting requirements should be evaluated and potential regulatory solutions considered.

Status: The Committee has not begun deliberation on this item

4. 14 CCR § 917.2 [937.2, 957.2] Treatment of Slash to Reduce Fire Hazard [All Districts]

Commented [HE4]: CAL FIRE Comment #5

Objective: At least one CAL FIRE Unit has identified the timing and extent of Slash treatment as contributing to additional hazardous fuel conditions. In one documented instance on the Dixie Fire this year, multiple Slash piles created by Timber Operations that had been awaiting chipping for multiple years adjacent to a public road were ignited and became part of the fire. Regulations related to hazard reduction should be evaluated for efficacy.

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:

The acres proposed to be harvested.

The regeneration methods and intermediate treatments to be used."

Objectives:

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.

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 2021.

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. Additionally, some stakeholders have requested a shortening of this period from 10 to 5 days.

Commented [HE5]: 2021 Dustin Lindler Comment

Status: No reportable actions were made on this topic in 2021.

3. Review of Stocking Reporting & Procedure

Objective: Evaluate current stocking sampling regulations in regard to their application within very small, or partially harvested, logging areas. Evaluate silvicultural requirements for restoration of areas not normally bearing commercial species provided that these areas are excluded from stocking requirements.

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

Commented [HE6]: 2021 Dustin Lindler comment

4. Geospatial Completion Reporting Requirements for Exemption and Emergencies

Objective: Evaluate the value of required improved geospatial reporting for all timber harvesting activities to allow state agencies and research institutions an opportunity for improved assessment of ecological performance measures.

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

Commented [HE7]: 2021 Loretta Moreno, CNRA, comment

5. 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.

Comments have been received which request review of archaeological coverage mapping rules within 14 CCR § 895.1 to consider excluding existing sites which are not significant.

Commented [HE8]: 2021 Dustin Lindler comment

Furthermore, comments have been received which request a reduction in the required 10-day period between Native American notification and plan submission.

Commented [HE9]: 2021 Dustin Lindler comment

Status: No reportable actions were made on this topic in 2021.

Road Construction Restrictions

Commented [HE10]: 2021 John Munn Comment

Objective: Evaluate regulations related to the construction of roads used in Timber Operations under permitting vehicles other than the THP for the purposes of thinning and fire prevention.

Status: The Committee has not begun deliberations on this issue.

6. 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.

7. Revision of Emergency Notice for Fuel Hazard Reduction

Commented [HE11]: 2021 Dustin Lindler comment

Objective: Evaluate requirements that an RPF develop fuels treatments to meet the objectives of a community fuelbreak area (per 14 CCR § 895.1) or other objectives which have the written concurrence of a public fire agency. Additionally, evaluate the current regulatory effective period of an emergency notice (1 year) for efficacy and suitability of modern Emergency Notice timber operations.

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

8. Review RPF Marking Requirements

Commented [HE12]: 2021 Dustin Lindler comment

Objective: Evaluate existing requirements for RPF tree marking & sample marking where narrative descriptions and operator selection may improve operational efficiencies.

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