

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, 2019

COMPLETED OR SUBSTANTIALLY COMPLETED IN 2018:**1. Report on Exemptions and Emergencies as Required by AB 1958 and AB 2029:**

Status: *The Exemption-Emergency Notice pilot monitoring project was recently completed and the initial report is expected to be completed in January, 2019. Additionally, CAL FIRE is working on filling five (5) Forester I positions that will focus on continuing exemption and emergency data collection. CAL FIRE intends for this data collection effort to be ongoing.*

2. Review of Specific Provisions with Exemptions 14 CCR § 1038:**Objective:**

- *Notification to CAL FIRE of the commencement of Timber Operations - Other exemptions under 14 CCR § 1038 require notification to CAL FIRE within 15 days of operations commencing. The notification allows CAL FIRE to appropriately time their inspections. CAL FIRE suggests that this required notification be applied to Less Than 3 Acre Conversions as well.*
- *Review of 14 CCR § 1038(j)(12) - 14 CCR § 1038(j)(12) states that fuel treatments under this exemption have to occur on at least 80% of the project area. The maximum diameter limit at stump height allowed under this exemption is currently 26", which is referenced in existing regulation under 14 CCR § 1038(j)(12). CAL FIRE contends that it may not be clear to the regulated public that trees harvested throughout the entire project area cannot exceed the 26" stump height threshold, rather than only across 80% of the project area.*
- *Potential extension of 14 CCR § 1038(k) - The Board adopted permanent regulations within 14 CCR § 1038(k) in response to the widespread bark beetle mortality resulting from 5 years of drought conditions. A sunset date of December 31, 2018 was included within the adopted regulations. The FPC will review the regulatory scheme considering any changing environmental conditions to determine if the regulation should be repealed or extended.*

Status: *The Exemption Amendments rule package was approved by OAL and the above issues were all addressed in addition to other general issues of clarity. The 1038(k) Exemption was extended through 2021. The amended language is used in the current version of the Forest Practice Rules. Future changes may result from Senate Bill 901 (Dodd, 2018), which directed the Board to consolidate and streamline the exemption process. Currently, the Board is holding public workshops to enlist public input on this matter.*

3. Cumulative Effects:

Objective: *The FPC continues to track updates from the Resources Agency detailing the progress of AB 1492 Working Groups on the issue of cumulative effects. The FPC also continues to track CAL FIRE Forest and Rangeland Assessment Program (FRAP) on the preparation of each new FRAP Assessment. Additionally, the FPC will be reviewing staff recommendations on the development of an environmental document regarding the effect of forest management on Greenhouse Gas sequestration based on the AB 1504 reporting. This process may assist landowners in the preparation of Plans as it relates to the analysis of cumulative impacts of GHGs.*

Status: *The 2018 iteration of the FRAP Assessment was released in August, 2018.*

The background paper on approaches to ecological performance measures has been drafted and will begin the workshopping process on January 15, 2019. The Campbell Creek Planning Watershed Pilot Project has completed the first phase and a draft report is in development as of December, 2018.

The Board will continue to provide annual reporting on above and below ground carbon stocks associated with the forestlands of California. Future reporting updates will consider the effects of harvested wood products on the state's carbon stocks. Upon the addition of those data, the FPC will consider staff recommendations on the preparation of an environmental document that will analyze these data. A data update was released on May 15, 2018 covering the years 2007-2016 and a formal report to the Board is planned for the January, 2019 meeting.

Finally, the Board has addressed the issue of cumulative effects this year via a regulatory package addressing Technical Rule Addendum No. 2. The amendments align the FPRs with significant provisions made to the California Environmental Quality Act (CEQA), specifically regarding fire hazard impacts and Greenhouse Gas (GHG) emissions. This helps preparers meet CEQA requirements while completing Timber Harvest Plans and maintains transparency for the Director of CAL FIRE, other interested agencies, and the regulated public. This action also serves to update 30-year-old guidance, including providing additional clarity in 14 CCR § 895, 895.1, 912.9 [932.9, 952.9], Technical Rule Addendum No. 2, and Appendix. Generally, the implementation of this amendment may improve environmental quality, lower wildfire risk, and thus improve the welfare and safety of California residents and workers. This regulatory action was approved by OAL on October 15, 2018 and became effective on January 1, 2019.

The Board may prioritize this item again in the future based on future developments in the AB 1492 and AB 1504 projects discussed above. The Board will also continue to monitor cumulative effects through the EMC as they continue to fund and receive updates from various projects testing the FPRs and related regulations.

PRIORITY 1 FOR 2019:

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 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. Currently, the problem statement is still in development by the Board members and staff.

The FPC will continue the development of a problem statement and the review of consistency issues in 2019.

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

Objectives:

- 14 CCR § 916.9(s) [936.9(s), 956.9(s)] [in part], No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under exemption notices except for... Should be considered in the context of 14 CCR § 1104.1(a)(2)(F), which allows conversion activities in the WLPZ where specifically approved by local permit. Should the Board defer to the county in these situations? Restriction of timber operations in the WLPZ affects timber operations conducted in compliance with defensible space regulations. There appears to be a conflict between this subdivision and PRC § 4291 and 14 CCR § 1299.
- 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: Significant progress was made on an Effectiveness Monitoring Committee (EMC) funded project at Blodgett Forest Research Station regarding the use of feller-bunchers in the WLPZ. A designation of "Experimental Forest Land" was granted by the Board with unanimous consent to Blodgett Forest to carry out the approved study. The EMC hosted its September meeting at Blodgett Forest with a presentation by Dr. Rob York, UC Berkeley – Blodgett Forest Research Station Manager, on the progress of the project. This project was initially funded in 2017 and is intended to address wildfire hazards in the WLPZ and determine various effects of feller-bunchers in the WLPZ. Preliminary results are anticipated in Winter 2019. The FPC also discussed the development of a non-regulatory action

supporting the use of feller-bunchers within a WLPZ under Specified Best Management Practices at the November meeting. It is the hope of the EMC that this project's results will help guide the FPC on establishing policy and/or regulation regarding the use of Feller-bunchers in WLPZ areas.

PRIORITY 2 FOR 2019:

1. 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 2018.

2. 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 2018.

3. 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 2018.

PRIORITY 3 FOR 2019:

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 2018.*

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 watercourse 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.*

Status: *No reportable actions were made on this topic in 2018.*

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 back 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 2018.

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:*
 - *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 2018.*

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 2018.*

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 2018.

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.

Status: Continuously ongoing.

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