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**Board of Forestry and Fire Protection**

**Permanent Rulemaking Emergency Notice for Fuel Hazard Reduction Amendments, 2020**

**Title 14 of the California Code of Regulations (14 CCR),**

**Division 1.5, Chapter 4,**

**Subchapter 7, Article 2**

**Forest Practice Committee**

**November 4, 2019**

**DRAFT RULEMAKING TEXT**

**§ 1052. Emergency Notice.**

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(e) Timber Operations shall not continue beyond 1 year from the date the Emergency Notice is accepted by the Director unless a Plan is submitted to the Director and found to be in conformance with the Rules and regulations of the Board, except ~~for burning~~ ~~operations to treat fuels~~ fuels treatments in accordance with §§ 1052.4(d)(4) - (5). ~~which shall be completed by April 1 of the year following fuel creation.~~

Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4592, 4750, 4750.3 and 4750.4, Public Resources Code.

**§ 1052.4. Emergency Notice for Fuel Hazard Reduction.**

The RPF preparing the Notice of Emergency Timber Operations for Fuel Hazard Reduction shall describe the nature of the Emergency and the need for immediate cutting in sufficient detail so that the reason for the Emergency is clear. Emergency Timber Operations, under the presumed Emergency standard of 14 CCR § 1052.1, may be commenced and conducted when in conformance with the following:

(a) RPF develops and documents the vegetative treatments necessary to meet the goals of 14 CCR § 1052.1(a)(5), and ensures postharvest conditions are in accordance with all subsections in 14 CCR § 1052.4. Such documentation shall include the following:

(1) A description of the preharvest stand structure, ~~and~~ statement of the postharvest stand Stocking levels,and description of postharvest stand structure.

(2) A description of the criteria to designate trees to be harvested or ~~the~~ trees to be retained, including those trees harvested pursuant to 14 CCR § 1052.4(d)(1)(A) and (2).

(3) All trees that are harvested or all trees that are retained shall be marked or sample marked by, or under the supervision of, an RPF before felling operations begin. When trees are sample marked, the designation prescription for unmarked areas shall be in writing and the sample mark area shall include at least 10% of the Harvest Area to a maximum of twenty (20) acres per stand type which is representative of the range of conditions present in the Harvest Area.

 (b) The conditions of subsection 14 CCR §§ 1038.1(c)(5) through (14), and 1038.3(p), are applied and, for operations in the Lake Tahoe Region, 14 CCR § 1038.1(b) is applied.

(c) Geographic area: operations are permitted:

(1) Within one-quarter (1/4) mile from Approved and Legally Permitted Structures that comply with the Building Standards Code (legal structure). Such legal structures shall be within or adjacent to a community listed in the List of Communities at Risk” (As published April 13, 2019 and hereby incorporated by reference) and have densities greater than one (1) structure per twenty (20) acres; or

(2) Within five hundred (500) feet of:

(A) A legal structure outside the area defined in 14 CCR § 1052.4(c)(1); or

(B) Either side of a federal or Public Road; or

(C) Either side of a private road providing access to legal structures; or

(D) Either side of haul roads suitable for evacuation or fire suppression with the written concurrence of a Public Fire Agency and determined by the Director to be consistent with the purpose of the Act and Rules; or

(E) Either side of ridges suitable for fire suppression with the written concurrence of a Public Fire Agency and determined by the Director to be consistent with the purpose of the Act and Rules; or
(F) Infrastructure including electrical distribution and transmission facilities, water reservoirs or other conveyances, wastewater facilities or conveyances, communication and data transmission and distribution facilities, or other assets or infrastructure at risk with the written concurrence of a Public Fire Agency and determined by the Director to be consistent with the purpose of the Act and Rules.

 (d) Vegetation Treatments: Tree removal shall target Codominant and Understory trees. The residual stand shall consist primarily of well-distributed, healthy and vigorous Dominant and Codominant trees from the preharvest stand.

(1) The following restrictions exist related to the diameter of trees that may be harvested pursuant to this section:

(A) Only trees less than thirty (30) inches in stump diameter, measured at eight (8) inches above ground level, may be removed except under the following condition: If the goal of fuel reduction cannot be achieved by removing trees less than thirty (30) inches in stump diameter, measured at eight (8) inches above ground level; trees less than thirty-six (36) inches in stump diameter, measured eight (8) inches above ground level, may be removed if that removal is necessary to meet the fuel objectives stated in 14 CCR § 1052.1(a)(5).

(B) No trees of the genus *Quercus* that are greater than twenty-six (26) inches outside bark stump diameter, measured at eight (8) inches above ground level, may be removed.

(2) Notwithstanding 14 CCR § 1052.4(d)(1)(A) and (B), dead or Dying trees, of any size, may be removed according to the standards of 14 CCR § 919.1 [939.1, 959.1], as applicable.

 (3) (A) The following canopy retention requirements are applicable to Timber Operations conducted pursuant to 14 CCR §§ 1038(f) and 1038.3: Minimum post treatment Canopy closure of Dominant and Codominant trees shall be 40% for east side pine forest types; 50% for coastal redwood and Douglas-fir forest types in or adjacent to communities and legal structures referenced in ~~subsection~~ 14 CCR § 1052.4(c)(1) and (2)(a); 60% for coastal redwood and Douglas-fir forest types outside of communities and legal structures referenced in ~~subsection~~ 14 CCR § 1052.4(c)(1) and (2)(a); and 50% for mixed conifer and all other forest types.

(B) The following canopy retention requirements are applicable to emergency Timber Operations conducted pursuant to 14 CCR §1052.4: Minimum post treatment Canopy closure of Dominant and Codominant trees shall be 30% for east side pine forest types; 40% for coastal redwood and Douglas-fir forest; and 40% for mixed conifer and all other forest types.

 (4) (A) Surface and Ladder Fuels in the Harvest Area, including logging Slash and Woody Debris, brush, small trees, and deadwood, that could promote the spread of wildfire shall be treated as follows:

1. Ladder and Surface Fuels, excluding residual stand Dominant and Codominant trees and any dead branches on those trees, shall be spaced to achieve vertical clearance distance of eight (8) feet or three (3) times the height of the postharvest fuels and vegetation, excluding Dominant and Codominant trees, whichever is the greater distance, measured from the base of the live crown of the postharvest Dominant and Codominant trees to the top of the Surface or Ladder Fuels or vegetation, whichever is taller.

2~~.~~ Additional fuel treatment standards are as follows:

 a. Within one hundred fifty (150) feet of those structures identified within 14 CCR § 1052.4(c)(1) and (c)(2)(A), all dead Surface Fuels that could promote the spread of wildfire, including Slash or Woody Debris, and brush, shall be chipped, burned, or removed within forty-five (45) days from the start of Timber Operations.

 b. Except for those areas described in provision a. above, all dead Surface Fuel, including Slash or Woody Debris, and brush, within the Harvest Area, shall be treated to a depth of less than nine (9) inches.

 (B) Postharvest compliance shall be determined by the combination of physical measurements and observations. Postharvest compliance shall be met on at least 80% of the Project area as calculated excluding WLPZs and other wildlife protection requirements developed in accordance with 14 CCR § 1052.4(g).

(C) The requirements of this subsection shall not supersede requirements of PRC § 4291.

(5) Fuel treatments shall include chipping, removal or other methods necessary to achieve the fuel hazard reduction standards in this section, and, notwithstanding the requirements of 14 CCR § 1052.4(d)(4)(A)2.a., shall be accomplished within one (1) year from the start of operations, except for burning operations, which shall be accomplished by April 1 of the year following Surface Fuel creation.

(e) Consistent with 14 CCR § 913 [933, 953] (d), as applicable, Stocking shall meet the resource conservation standards for minimum Stocking within 14 CCR § 912.7 [932.7, 952.7] (a)-(c), as applicable, immediately upon completion of Timber Operations.

(f) The resource conservation standards of the Rules may be met with Group A and/or Group B commercial species. The percentage of of the stocking requirement met with Group A species shall be no less than the percentage of the stand basal area they comprised before harvesting. The following information shall be supplied by the RPF preparing the Notice:

(1) How using Group B species to meet the resource conservation standards will meet the intent of 14 CCR § 1052.4. The discussion shall include at least:

(A) The management objectives of the post-harvest stand;

(B) A description of the current stand, including species composition and current stocking levels within the area of Group B species. The percentage can be measured using point-count, basal area, stocked plots.

(C) The percentage of the post-harvest stocking to be met with Group B species. Post-harvest percentages will be dertemined on the basis of stocked plots. Only the methods provided for in 14 CCR §§ 1070 -1075 shall be used in determined of the standards of the PRC § 4561 have been met.

(D) A description of what will constitute a countable tree, as defined by PRC § 4528 for Group B species and how such a tree will meet the management objectives of the post-harvest stand.

(g~~f~~) As part of the preharvest Project design, the RPF shall incorporate habitat requirements for fish, wildlife and plant Species in accordance with ~~sections~~ 14 CCR §§ 898.2, 916.9 [936.9, 956.9] and 919 [939, 959] *et seq*. Such evaluations shall include use of the California Natural Diversity Database (as referenced by the CDFW, https://www.wildlife.ca.gov/Data/CNDDB) and local knowledge of the Planning Watershed. Consultation with CDFW personnel is recommended. Examples of habitat requirements to be incorporated into the Project include retention of large Woody Debris and Snags congruent with Emergency condition goals, and vegetative screening for wildlife cover and visual aesthetics.

(h) The RPF shall comply with 14 CCR § 1035.2 relating to interaction between the LTO and the RPF.

Note: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 21001(f) and 21080(b)(4), Public Resources Code.