



California Department of Forestry
and Fire Protection

**Report to the Board of Forestry
and Fire Protection on
Newly Effective Forest Practice Rules
and Suggested Rule Modifications for Consideration**

November 22, 2019

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Introduction

The California Department of Forestry and Fire Protection (CAL FIRE) presents this report to the Board of Forestry and Fire Protection (Board) in response to the procedures outlined in the memo entitled, *Board Procedure for the Review of Forest Practice Rules* (December 6, 2017). The memo states that following the Board's public notice of their "Annual Board Regulation and Policy Review," at a regularly scheduled meeting of the Board, the Board shall request agency and public comment to address the following:

- **Areas where questions exist on interpretation of the regulatory standards, including potential solutions.**
- **Issues encountered in achieving compliance with the regulatory standard of rules, including potential solutions.**
- **Suggested regulatory modifications which would either 1) clarify existing rule language to better achieve the intended resource protection, or 2) which would reduce regulatory inefficiencies and maintain the same or better level of protection.**

Interpretation Questions or Compliance Issues with Implementation of New Rules

To provide the Board with the above-requested information, CAL FIRE has queried plan review and field inspection staff regarding implementation of recently adopted rules, and any other area of the rules that has presented difficulty in implementation or interpretation.

To date, no significant interpretation questions or compliance issues have emerged during the initial period of new rule implementation. The Department supported both the regular and emergency rulemaking amendments, and will continue to monitor their implementation from this point forward.

This report presents information related to the following:

- Summary of recently implemented rules, including legislation
- Suggestions for Board rule review

Forest Practice Rules Implemented In 2019

Four (4) Board of Forestry and Fire Protection regular (non-emergency) rulemaking proposals were adopted in 2018 and became effective upon approval of the Office of Administrative Law (OAL) on January 1, 2019. The approved rulemaking proposals were: “Exemption Amendments, 2018;” “Defensible Space SRA Amendment;” “Cumulative Impacts Assessment Checklist, Technical Rule Addendum No. 2 and Appendix Amendments;” and, “Timberland Conversion Exemptions, 2018.” Additionally, the Board adopted, and OAL approved, three (3) emergency rulemaking proposals entitled, “Emergency Rulemaking to Facilitate Post-Fire Recovery Efforts within Counties of Lake, Siskiyou, Mendocino, Shasta, Trinity, and Napa;” “Emergency Rulemaking to Facilitate Post-Fire Recovery Efforts within County of Butte;” and, the comprehensive Exemption Emergency Regulations, 2019 rulemaking initiated by Senate Bill 901.

Suggestions for Board Rule Review

For the most part, specific line-by-line revisions to a given rule are not contained in this report. Furthermore, CAL FIRE continues to work with the Board through various committees, subcommittees, and task groups to develop alternatives to the existing regulations. CAL FIRE hopes that the Board will consider current and previous work done in these committees. CAL FIRE can provide specific recommended changes to the Board as the rule review process moves forward.

The Department appreciates the Board’s prioritization of rule review related to tethered equipment yarding methods, the 1104.1(b) Utility Right of Way Exemption, and LTO Program rule amendment proposals brought forward in the Department’s previous report of last December. As committee discussion of these items has either not begun or only recently been initiated, the Department is hesitant to bring forward a further comprehensive list of rulemaking items for the Board’s consideration. Notwithstanding the one minor suggestion provided below, it is preferable to work through the coming year to resolve the items brought forward in last year’s report. It should also be noted that the Department is continuing to evaluate more comprehensive amendments to the rules for Licensed Timber Operators and expects to work with the LTO community to bring those forward for consideration sometime in 2020.

Review Commercial Species Group B Designation for Monterey Pine

The Board had an opportunity during its meeting in San Luis Obispo this summer to visit various fuel hazard reduction projects in the Coastal Zone. Among these projects was a Monterey pine thinning implemented by the CAL FIRE San Luis Obispo Administrative Unit to create a shaded fuel break in proximity to the town of Cambria. Permitting of the fuel break was achieved through completion of a Mitigated Negative Declaration and Minor Use Permit approved by the Coastal Commission because Monterey pine is no longer a Group A Commercial Species and therefore cannot be managed by itself under permitting authority of the Forest Practice Act and Rules.

It is understood that prior to its placement on the Group B Commercial Species list for each of the Forest Districts, Monterey pine was seldom harvested for commercial purposes in California. However, it is in fact a dominant commercial species internationally and does have a history of commercialization in the state. It is a particularly important tree species in the context of fuel hazard reduction on the central coast of California and certainly factors into the protection of coastal communities.

Limited opportunities exist for communities attempting to reduce heavy fuel loading in Monterey pine forests within the Coastal Zone because it is on the Group B species list in an area without Group A species. A possible minor fix for this management problem is to place Monterey pine back on the Group A Commercial Species list for all or a portion of the Forest Districts in the state. The Department recommends the Board consider this a high priority item for the 2020 rulemaking year. This is consistent with the Governor's, the Legislature's, the Board's and CAL FIRE's recent efforts to increase fuel reduction to protect communities across the State.

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