

BOARD OF FORESTRY AND FIRE PROTECTION

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January 21, 2020

MEMORANDUM

TO: Regulatory Workshop
FROM: Board Staff
SUBJECT: Matters Requiring Additional Discussion or Action for “Emergency Fuel Hazard Reduction Amendments, 2019”

On July 18, 2019, the Board approved the findings of Emergency and adopted the rulemaking entitled “Emergency Fuel Hazard Reduction Amendments, 2019.” This emergency regulatory action became effective on August 14th, 2019 and will remain in effect until February 11, 2020, at which time the Board will have the option to re-adopt the emergency regulations, resulting in an additional effective period of 6 months. Ultimately, for this regulatory scheme to remain effective, the Board must adopt permanent regulations, or the Emergency regulations will expire and the regulatory scheme that was in existence prior to emergency rulemaking will remain in effect.

Pursuant to the Administrative Procedures Act, the Board is compelled to demonstrate pursuit of permanent rulemaking in response to the Emergency Adoption of regulations. In doing so, the Forest Practice Committee engaged in discussion at the September 24, 2019, November 6, 2019, and December 10, 2019 committee meetings, as well as a regulatory workshop on January 7, 2020, on outstanding issues that the Board committed to further investigate during permanent rulemaking efforts. The following committee comments, as provided below, were provided in response to discussion on the following outstanding matters.

1. Separate canopy retention standards for plantations

Comments were offered by stakeholders and members of the Board that the canopy standards, as amended, may not be appropriate in plantations. Comments indicated that this issue was particularly acute when measured against all other regulatory metrics that must be complied with (i.e., diameter limits, retention of hardwoods, treatment of ladder fuel, and minimum stocking). Some commenters expressed concern that further reduction of canopy standards may impact other resource values.

- **Committee Review: The full Board committee commented that it may be worthwhile to create separate canopy retention standards for stands with smaller diameters, in order to address potential issues with the number of trees which would be required for retention not addressing the goals of the specific Emergency Notice.**
- **Workshop recommendation: Use average residual stand diameter in order to establish a point at which canopy retention standards may be eliminated, and retention would be based on Tree Per Acre requirements.**

2. Available windows for required fuel treatments

The concern expressed is one of timing as it relates to completion of fuel treatment of Ladder Fuels, Surface Fuels, brush, Slash and Woody Debris. 14 CCR 1052.4(d)(5) states that all fuel treatments, notwithstanding burning operations or fuel treatments within 150 feet of structures, shall be completed one year from the start of timber operations.

- **Committee Review: The Forest Practice Committee commented that this issue is one that warrants additional discussion and that the issue of timing should be addressed in a manner that provides flexibility for the treatment of post-harvest accumulation of Ladder Fuels, Surface Fuels, brush, and Slash and Woody Debris. Additionally, the issue of the challenge of meeting the 9 inch post-harvest fuel depths was also raised as it relates to not only treatment timing, but also treatment costs. Furthermore, discussion occurred surrounding difficulties in achieving burning operations within the regulatory timing windows.**
- **Staff recommendation: Solicit comment from technical experts to describe current understanding of fuel treatment effects on fire behavior.**
- **14 CCR § 1052.4(d)(B) – Post-harvest fuel treatments “shall be met on at least 80% of the Project Area.”**
 - **From 1052.4 Permanent Rulemaking (Rulemaking File 270):**
 - *“Vegetative Treatment:*
 - *Surface fuels: substantial treatment of surface and activity fuels to meet a four foot flame length objective;*
 - *Ladder fuels: increase height to live crown base (HTLCB) to minimum 8 feet;*
 - *Crown fuels: 50% minimum crown closure, varying by forest type, 30 inch stump diameter maximum tree size removal;*
 - *Obtain vegetative treatment on at least 80 percent of project area.*

The Board has determined that a combination of performance and prescriptive standards for vegetative treatment requirements best meets hazard reduction goals. The performance standard components focus on meeting the goal of treatments to eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, fire duration and intensity, fuel ignitability, or ignition of tree crowns. Treatments should obtain a goal that promotes maximum 4 foot flame lengths when burned under severe fire weather. In addition to the fuel hazard reduction performance standards, standards are included to address maintaining wildlife habitat, sensitive plant habitat and visual screening in areas determined to be necessary and consistent with fuel hazard reduction objectives.

The proposed vegetation treatment reflects methods to obtain the 4 foot flame length objective. This objective produces maximum fire safe conditions and structure protection and provides a location suitable for deployment of fire suppression crews. The proposed treatment is generally considered to be very intensive treatment of surface, ladder and crown fuels

resulting in very clean surface and understory forest conditions, and provides for space between crowns by eliminating overlapping crowns.”

- **From “Exemption Amendments, 2018”:** *“Added new provision to § 1038 (j)(10)(D) stating that existing provisions of § 1038 (j)(10)(A), (B), and (C) must be achieved on 80 percent of the treated area. This is necessary improve the clarity of the provision, achieve the statutory goals of the creation of an economically feasible Forest Fire Prevention Pilot Program, and to provide a compliance metric with physical treatment requirements which would be difficult to achieve on 100% of the area.”*
- **From “Forest Fire Prevention Exemption, 2005”:** *“Subsection 1038 (i) (12) requires the treatment for fuel hazard reduction be accomplished on at least 80 percent of the project area. This ensures the hazard is adequately reduced while providing for areas to be untreated to meet non-fire resource objectives such as wildlife habitat, streamcourse vegetative buffers and aesthetic screening.”*
- **From AB 2420 (Chapter 712, 2004):** *“(9) Ladder and surface fuels shall be removed to achieve a minimum clearance distance of eight feet, measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the surface fuels. Surface fuels in the harvest area, including logging slash and debris, low brush, and deadwood, that could promote the spread of wildfire, shall be treated to achieve the goal of an average of four foot maximum flame height under average severe fire weather conditions. This goal shall be achieved on approximately 80 percent of the treated area. The treatment shall include chipping, removing, or other methods necessary to achieve the goal, and shall be done within 120 days from the start of timber operations or by April 1 of the year following surface fuel creation if the surface fuels are piled and burned.”*
- **The term “Surface Fuels” could be replaced with “Slash and Woody Debris.”**
- **14 CCR 1052.4(d)(5) Timelines for completion of burning fuel treatments or could be extended for two years from the Director’s receipt of the notice, consistent with the Forest Fire Prevention Exemption (14 CCR § 1038.3(d)(3)**