## **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 wildlife, and water resources.

### **COMPLETED OR SUBSTANTIALLY COMPLETED IN 2022:**

**Class II-L Determination Amendments**

**Objectives:** The regulatory methods for determining Class II-L watercourse status were set to expire on January 1, 2023, which would have resulted in significant issues of clarity and consistency within the Rules. This expiration date was put in place to allow further evaluation of the efficacy of Class II WLPZ widths and operational requirements in relationship to Watercourse characteristics and achievement of the goals specified in 14 CCR §§ 916.9, 936.9, and 956.9 subsection (a). The Effectiveness Monitoring Committee proposal EMC-2015-001 investigated the variability of the relationship between drainage area, active channel width, and perennial flow extent across the Anadromous Salmonid Protection (ASP) area and compared the relationships derived in (a) to the rule criteria for Class II-L identification in terms of both drainage area and average active channel width to determine if these criteria were effective in identifying perennial Class II-L watercourses in different lithologies, or if rule modifications were needed. These studies and analysis, completed and presented to the Board in 2021, identified that drainage area is a much better predictor of certain watercourse values promoted by the Board’s Class II-Large designation than average active channel width. Additionally, the studies and analysis revealed that average active channel width was, in fact, a poor predictor of certain watercourse values promoted by the Class II-L designation. The completed rule package eliminates the regulatory method of Class II-L determination based on average active channel width. The action also eliminates the regulatory sunset period for methods to determine Class II watercourse type in order to avoid future issues of regulatory clarity or inconsistency.

**Status**: This rule package has been approved by OAL and became effective January 1, 2023.

**Northern Spotted Owl Take Avoidance Pathways and Habitat Definition Updates**

**Objectives:** Several of the habitat definitions in 14 CCR § 895.1 related to Northern Spotted Owl are derived from the USFWS 1992 “Protocol For Surveying Proposed Management Activities That May Impact Northern Spotted Owls” and are not present in the 2012 “Protocol For Surveying Proposed Management Activities That May Impact Northern Spotted Owls”. In addition, some mechanisms for take avoidance as described in 14 CCR §§ 919.9 and 939.9 are no longer in effect. The definitions and take avoidance pathways are updated to reflect current regulatory requirements from the Department and listing agencies.

**Status**: The Committee recommended rule text for Board consideration in September 2022. The 45 day notice has been submitted and the public hearing will occur during the January 2023 meeting. The Board anticipates effective regulations by January 2024.

**Spotted Owl Resource Plan Amendments**

**Objectives:** As written, the definition of “Spotted Owl Resource Plan” in 14 CCR § 895.1 did not include timberlands such as those covered by an NTMP or WFMP. The objective was to amend this definition to reflect that this resource plan is open to all timberland landowners.

**Status**: This rule package has been approved by OAL and became effective January 1, 2023.

**Notice of Intent Amendments**

**Objectives:** The Board considered amending 14 CCR § 1032.7(d) that read 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.”* The objective was to include all acres where timber operations will occur, not just the area where timber will be harvested. In doing so, the Board considered the current definition of Logging Area and the lack of a definition of “plan area”.

Additionally, the rule section did not capture all possible treatments that were permitted to occur, e.g., special prescriptions and other types of associated timber harvesting, such as road right-of-way or timberland conversion.

**Status**: This rule package was approved by OAL and became effective January 1, 2023.

**Substantially Damaged Consistency Amendments**

**Objectives**: Between the two provisions 14 CCR §§ 895.1 and 913.8, there existed 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**: This rule package was approved by OAL and became effective January 1, 2023.

**Santa Cruz and San Mateo 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. At the request of the counties, the Board acted to extend these emergency rules in March of 2022, and again in May of 2022. The regulations expired on September 22, 2022.

**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 originally adopted by the Board in July 2021. Action to adopt the emergency regulations as permanent was taken by the Board in March 2022, and the resultant Certificate of Compliance was approved by OAL on May 5, 2022. This allowed the emergency regulations to remain in effect until the permanent regulations became effective January 1, 2023.

### **Priority 1 for 2023:**

**Treatment of Slash to Reduce Fire Hazard [All Districts]**

**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 begun deliberation on this item.

**Tractor use in Cable Yarding Section 914.3 [934.3, 954.3](e)**

**Objective:** Prior to amendment of this rule section, it was common in the Coast Forest District for RPF’s to propose exceptions pursuant to this former rule section, particularly to allow for tractor yarding in areas of poor deflection and hard to reach corners in cable corridors. As a result of the amendments to this section and 14 CCR § 914.2(f)(5), the RPF may not propose exceptions to 14 CCR § 914.2(f)(5), which precludes Tractor Operations on slopes greater than 50% in Cable Yarding areas.

CAL FIRE Unit and Region Forest Practice staff have heard concerns expressed by RPFs of record on harvesting plans about the implications of this rule change. As previously noted by the Department, it appears there may have been an unintended consequence in adoption of the amended language restricting the use of tractors in cable settings. To ensure the regulated public is afforded an opportunity to express their perspectives on this matter, the Department suggests the Forest Practice Committee place this topic on its agenda for discussion at a future meeting. This would allow for a full vetting of the concerns heard by the Department and provide an opportunity for closure of the matter.

**Status**: The Committee has begun deliberation on this item.

**“Approved Watercourse crossings” as used in Anadromous Salmonid Protection Rules Exemption and Emergency Notices (14 CCR § 916.9(s)(4) and 14 CCR § 916.9(t)(4)).**

**Objective**: Emergency Notices of Timber Operations may involve the construction or reconstruction of roads and watercourse crossings. The language in these sections for the Forest Practice Rules requires the approval of watercourse crossings by a process outside of the Emergency Notice authorization. It is unclear how a watercourse crossing is approved, and which agency provides approval under exemption and emergency notice ministerial permits.

Road or watercourse crossing construction or reconstruction activities conducted under an Exemption or Emergency Notice project would require approval from the Water Board as well as CDFW. Watercourse crossing construction and reconstruction is likely to place earthen material within the watercourse and to create discharges of sediment to waters of the state, which requires regulatory authorization as part of a Water Board permit. The same crossing construction and reconstruction is likely to alter streambeds, requiring CDFW approval. To avoid potential confusion with applicants, this section should include not only explicit reference to CDFW approval, but also Water Board approval.

The State and Regional Water Boards suggest 14 CCR §§ 916.9(s)(4) and 14 CCR 916.9(t)(4) state explicitly what constitutes an “approved Watercourse crossing” and from where the approval is derived. The BOF may consider modifying the Forest Practice Rules to address regulatory coverage for road and watercourse crossing construction or reconstruction activities that are not currently authorized under an Emergency Notice.

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

**“Ford” and other related crossings Definitions**

**Objective:** Although the term “ford” was defined as part of the Road Rules 2013 package, the definition is ambiguous which has led to confusion in the field. The definition in 14 CCR § 895.1 states: “Ford means a Logging Road Watercourse crossing where the road grade dips through the Watercourse channel.” It is not clear whether it means where the road grade dips through the native watercourse channel, or whether it may include flowing water across a constructed dip in the road grade, which is designed to act as the watercourse channel.

The inconsistent terminology leads to confusion in the field, where the RPF writing the THP may envision one type of crossing, the agency inspector reviewing the plan may envision another type of crossing, and the operator implementing the plan may envision something entirely different from either the RPF or agency reviewer.

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

### **PRIORITY 2 FOR 2023:**

**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.

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

**Emergency Notice Expiration Term**

**Objective**: The existing rules allow a one year emergency. With high number of emergencies and the shortages of available logging capacity it is very difficult to schedule or even find logging capacity. The Committee may evaluate the current regulatory effective period of an emergency notice for efficacy and suitability of modern Emergency Notice timber operations.

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

**14 CCR § 1034, Contents of Plan:**

**Objectives:** The Board may 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 reference to 1032.7(f) in 14 CCR § 1034(r): 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 may consider revising 1034 to make Class III watercourse crossings a required mapping feature within a Plan. Language in 14 CCR §§ 1034(x)(7) and 916.4 [936.4,956.4] may be evaluated and potentially reconciled for consistency.

The Board received a comment in response to its 2019 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 may consider adopting regulatory standards for digital mapping submission requirements in timber harvesting documents, including geospatial data, LiDAR, or other remote sensing systems.

**Status**: No reportable action in 2022.

**Treatment of Vegetation and Fuels in the WLPZ**

**Objective:** The committee may consider examination of watercourse protections and potential new rules that allow for vegetative fuel reduction, creation of mosaic vegetation patterning, scarification of soil with machinery and creation of fuel discontinuity to better protect watercourse related resources during fire events.

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

### **PRIORITY 3 FOR 2023:**

**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.

The Committee may contemplate updating Board policy to consider Native American cultural values as a value of the Forest Practice Rules in addition to other values already listed in PRC § 4639 (recreation, watershed, wildlife, etc.)

A public comment has been received which request review of archaeological coverage mapping rules within 14 CCR § 895.1 to consider excluding existing sites which are not significant. This comment also requested a reduction in the required 10-day period between Native American notification and plan submission.

**Status:** No reportable actions were made on this topic in 2022.

**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:** Ongoing.

**“Operational provisions” as used in Exemptions (14 CCR § 1038) and Emergency Notices (14 CCR §§ 1052(b) and 1052.5(b)), and “applicable provisions” as used in Conversion Exemptions (14 CCR 1104.1)**

Forest Practice Rules Exemption and Emergency Notice sections state that "Timber Operations … shall comply with all operational provisions of the FPA and District Forest Practice Rules applicable to 'Timber Harvest Plan', 'THP', 'and Plan'…" but neither “Operational provisions” as used in Exemptions and Emergency Notices, nor “applicable provisions” as used in Conversion Exemptions, is defined. The lack of any definition creates problems both for operators who must work without clear direction and for agency staff since the terms, lacking clear definitions, are difficult to enforce.

The State and Regional Water Boards suggest the Board of Forestry should either A) define which provisions are “operational” and “applicable” or B) direct the Department to create a list of “operational” and “applicable” provisions to be distributed to the regulated public and the agencies.

**Status:** The Committee will review this issue after the related Department guidance document is produced.

**Review Assessment and Mapping Standards for Spawning and Rearing Habitat for Anadromous Salmonids (14 CCR § 916):**

**Objectives:** Review the necessity and utility of assessing and mapping standards of 14 CCR § 916.4 for spawning and rearing habitat for anadromous salmonids. Review and consider revision of watershed restoration standards in 14 CCR § 916.4.

**Status**: CDFW and the Department may present on the application and use of the existing rules.

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

**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.

**THESE ITEMS WERE FLAGGED FOR EITHER PRIORITY THREE OR REMOVAL, DEPENDENT ON REVIEW OF THE COMMENT LETTERS**

**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.

**Status**: No reportable actions were made on this topic in 2022.

**Review of Stocking Reporting and Procedure**

**Objective:** Evaluate current stocking sampling regulations regarding 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.

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

**Review RPF Marking Requirements**

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

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