



## DEPARTMENT OF FORESTRY AND FIRE PROTECTION

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BOARD OF FORESTRY AND FIRE PROTECTION

May 4, 2018

Keith Gillless, Chairman  
California Board of Forestry and Fire Protection  
1416 9<sup>th</sup> Street  
Sacramento, CA 95814

Re: Use of Exemptions within the Boundaries of an Approved Nonindustrial Management Plan

Dear Chairman Gillless,

Thank you for your April 30, 2018, letter regarding the use of exemptions within the boundaries of an approved Nonindustrial Management Plan (NTMP). At the April 8<sup>th</sup> Forest Practice Committee meeting, there were preliminary discussions of whether exemptions are let under approved NTMPs. The attached memorandums from Toby McCarty and Bill Snyder were distributed. No definitive conclusion was reached on this issue, rather, it was agreed that the Board and the Department would continue to work on it.

As said by Deputy Director Eng. at the April Board meeting, the Department looks to the Board for direction in interpreting laws and regulations. This principle is formalized in the Board's regulations, section 1655 (c) which states:

The rules and regulations of the Board, including the Forest Practice Rules, shall contain the policies of the Board for guidance of the Director in administering the Department. Such rules shall be interpreted to give recognition to all applicable state statutes and to harmonize questions of potential policy conflicts. If, during the administration of rules and regulations established by the Board, the Director finds conflicts, inconsistencies, or a lack of sufficiently clear standards to guide the Director or persons affected by the regulations, then the Director shall immediately seek clarification from the Board.

The Department would like to request clarification from the Board on whether exemptions are permitted under approved NTMPs. I value the close working relationship between the Department and the Board, and welcome any opportunity to provide background information to the Board. Until the Department receives guidance from the Board on this matter, the department will continue to follow its existing policy of permitting exemptions under NTMPs.

Sincerely,

  
KEN PIMLOTT  
Director

Attachments

# Memorandum

**To:** Helge Eng, Deputy Director  
 Dennis O. Hall, Assistant Deputy Director  
 Eric Huff, Staff Chief  
**California Department of Forestry and Fire  
 Protection (CAL FIRE)**

**Date:** March 22, 2018

**Telephone:** 916.657.0561

**Website:** www.fire.ca.gov

**From:** Toby A. McCartt, Staff Counsel  
**CAL FIRE**

**Subject:** Exemptions Overlapping NTMPs

This memorandum is intended to harmonize several provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (Act) (Pub. Resources Code §§ 4511, *et seq.*) and Forest Practice Rules (Rules) (Cal. Code Regs., tit. 14, §§ 895, *et seq.*) as they relate to timber operations on lands included within an approved nonindustrial timber harvest plan (NTMP). Specifically, the question was posed whether activities exempted pursuant to sections 4584 of the Public Resources Code (PRC) and its implementing regulations, including section 1038.1 of the Rules, may be conducted pursuant to a Notice of Exemption (Exemption) on timberland within the boundaries of an approved NTMP. CAL FIRE cannot accept an Exemption for land that is included within the boundaries of an approved NTMP.

The conclusion that an Exemption cannot be accepted by CAL FIRE for land covered by an approved NTMP is compelled by the terms of the statutes and Rules governing NTMPs. Section 4594 of the Public Resources Code states that a nonindustrial tree farmer who owns or otherwise controls "all or *any portion of any timberland* within the boundaries of an approved nonindustrial timber management plan, and who plans to harvest *any of the timber thereon* during a given year, shall file a nonindustrial timber harvest notice with the department in writing." (Pub. Resources Code § 4594.) This language is unambiguous and clearly provides that the only vehicle for harvesting any timber on any timberland subject to an NTMP is through a "nonindustrial timber harvest notice," otherwise known as a Notice of Timber Operations (NTO). There is nothing in the Rules that would conflict with this conclusion. It must be assumed that the Legislature and the Board of Forestry were aware of existing law when they approved the statutes and Rules, respectively, implementing the NTMP. Given that the NTMP was created by the Legislature in 1989 and implemented by Board Rules thereafter, and that the Act & Rules have contained provisions for exempt activities since their inception, it must be assumed that the Legislature and the Board were aware that there were exemptions otherwise available to the nonindustrial tree farmer. That the Legislature spoke so clearly without admitting of deviation, and that the Board did not specifically provide that the filing of an Exemption exempted the submitter from compliance with the command to file an NTO, is telling.

This interpretation is also supported by section 4593.8 of the Public Resources Code, which states that a nonindustrial tree farmer may amend the NTMP, but also that the nonindustrial tree farmer "may not take *any action* which substantially deviates, as defined by the board, from the approved plan *until* the amendment has been filed with the director and the director has determined that the amendment is in compliance . . . ." (Pub. Resources Code § 4593.8 [emphasis added].) Thus, any substantial deviation from the approved NTMP must be effected through an amendment to the NTMP rather than through a separate Exemption document. The definition of "substantial deviation" includes many actions that would seem to be of the sort that an Exemption may allow, including changes in the location of harvest or expansion of the harvest area, changes in silviculture, or changes in the logging and yarding methods. (Cal. Code Regs., tit. 14, § 1090.14.) Section 4593.9 provides that non-substantial deviations from the approved NTMP may be undertaken immediately but must be reported to the Department after the fact. These provisions support the interpretation that where timberland is subject to an NTMP, the proper vehicle for the types of operations allowed under an Exemption would be through an NTO. Where the operations contemplated conflict with the NTMP in a substantial way, such operations may not commence unless and until the Department approves an amendment to the NTMP, and the nonindustrial tree farmer subsequently files an NTO that is consistent with the amended NTMP. Where the change in operations is not substantial, the operations may commence pursuant to an NTO but the deviations must subsequently be reported to the Department.

State of California

Natural Resources Agency

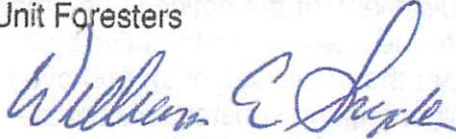
# Memorandum

**To:** Region Chiefs  
 Assistant Region Chiefs  
 RM Staff Chiefs  
 Unit Chiefs  
 Region Forest Practice Managers  
 Unit Foresters

**Date:** October 10, 2012

**Telephone:** (916) 653-4298

**Website:** www.fire.ca.gov



**From:** William E. Snyder  
 Deputy Director, Resource Management  
 California Department of Forestry and Fire Protection (CAL FIRE)

**Subject:** Timber Operations in Areas Substantially Damaged Due to Wildland Fires

## INTRODUCTION

The Forest Practice Act (Act) and other governing laws and regulations permit the immediate or rapid removal of trees from areas damaged by lightning caused fires. This memorandum is intended to provide guidance regarding timber operations in areas where such damage has occurred. Excerpts from the governing laws and regulations referenced throughout this memorandum are also provided as guidance in Attachment 1.

The legislature and the Board of Forestry and Fire Protection (Board) have provided three primary methods to remove trees from timberland that has been damaged by fire. Operations can be conducted immediately under an Exemption Notice or an approved Plan (Timber Harvesting Plan, Modified Timber Harvesting Plan, Non-Industrial Timber Management Plan, or Program Timber Harvesting Plan) and within 5 working days under an Emergency Notice. The legislature provided the Board statutory authority to develop specific regulations under the following Public Resources Code (PRC) sections:

- **PRC § 4584(c) – Exempt Activities** allows the Board to develop regulations for the removal of dead, dying, and diseased trees without first preparing a timber harvesting plan (THP).
- **PRC § 4592 – Emergency Notice** requires the Board to define emergency conditions that allow for the immediate commencement of timber operations without first preparing a timber harvesting plan when a bona fide emergency exists.
- **PRC § 4561.6 – Stocking Standards Applicable to Operations Damaged by Disaster** requires the Board to develop stocking standards for timber operations on timberlands which have been substantially damaged by fire.



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The Board developed a series of options under the Forest Practice Rules (Rules) that can be utilized depending on the site-specific conditions. The most restrictive permitting option is the conduct of timber operations under 14 CCR § 1038(b) (or § 1038(f) in the Tahoe Basin), which allows the harvest of dead, dying and diseased trees under an Exemption Notice with significant operational restrictions. While not as restrictive, timber harvesting conducted under an Emergency Notice pursuant to 14 CCR § 1052 must comply with all the operational rules of the Board, as well as the requirement for the notice to be prepared by a RPF. Additionally, in-lieu practices, exceptions to the rules, and alternative practices are not allowed. Finally, operations can continue under the provisions of an approved Plan as long as notice is provided to the Director designating the substantially damaged timberlands and describing the operations to be conducted (ref. 14 CCR § 1080.2).

### **EXEMPTION NOTICE**

Where no Plan has been approved, the harvesting of dead or dying trees of any size in amounts less than 10% of the average volume per acre may begin immediately when the conditions listed under 14 CCR § 1038(b)(1-10) are met (or § 1038(f)(1-16) in the Tahoe Basin). Timber operations conducted under an Exemption Notice are subject to significant restrictions that include, but are not limited to:

1. equipment limitations;
2. road and tractor road construction limitations; and
3. limitations on operations in sensitive areas such as streamside areas, buffer zones for sensitive or listed species, or historical and cultural sites.

If an RPF certifies that the timberland proposed for harvest under the exemption is substantially damaged, the limit of 10% of the volume per acre above does not apply when harvesting dead trees which are unmerchantable as sawlog-size timber (ref. 14 CCR § 1038(d) or § 1038(f)(16)). In that instance, additional notification and certification standards apply, including an RPF certification that no conditions were identified where operations conducted in compliance with the rules of the Board would reasonably result in significant adverse effects. Furthermore, operations may not commence for 5 working days. The Board defined substantially damaged timberlands in 14 CCR § 895.1 and established stocking standards as directed by the Legislature pursuant to PRC § 4561.6. These standards are found in 14 CCR §§ 1080-1080.5.

### **EMERGENCY NOTICE**

Where no Plan has been approved, landowners may hire an RPF to prepare and submit an Emergency Notice to the Director. An 'Emergency' means that conditions exist that will cause waste or loss of timber resources that may be minimized by immediate harvesting (ref. 14 CCR § 895.1). Timber operations to harvest fallen, damaged, dead, or dying trees pursuant to 14 CCR § 1052 et seq. may begin after 5 working days. There are significant requirements that must be adhered to, including preparing a Confidential Archaeological Letter and notifying the Native Americans prior to submittal.

Timber operations performed under an Emergency Notice must comply with all operational provisions of the Forest Practice Act and District Forest Practice Rules applicable to a Plan. Such operational rules may differ in watersheds with listed anadromous salmonids (ASP; ref. 14 CCR § 895.1). Furthermore, 14 CCR § 1052(c) prohibits operations that would require discretionary review and approval by CAL FIRE such as the use of in-lieu practices in watercourse and lake protection zones, exceptions, and alternative practices (unless necessary to protect public health and safety). Operations proposed under a winter period operating plan would also require discretionary review and are not allowed under an Emergency Notice; however, winter period operations may occur but are constrained by standard prescriptive operational rules (ref. 14 CCR §§ 914.7(c), 934.7(c) or 954.7(c)). Timber operations conducted to harvest fire-damaged timber under an Emergency Notice must be completed within 1 year, unless a Plan is approved allowing for continued operations in the area.

As stated above, in recognition of the potential for stocking to fall below the stocking requirements of the Act or the Rules, the Board defined substantially damaged timberlands and established stocking standards for such lands (ref. 14 CCR §§ 895.1 and 1080-1080.5). Pursuant to 14 CCR § 1080.2, the Emergency Notice must designate and describe where timber operations are to be conducted on any such substantially damaged timberlands.

### **Exemptions and Emergency Notices on Approved Plans**

The timber owner has the option to file an Exemption Notice or Emergency Notice on the impacted portion of an approved Plan provided they comply with all the requirements, restrictions, and limitations applicable to such operations (ref. 14 CCR §§ 1038(b) and (d) or (f)(16), and 1052) and have considered the necessity to address CEQA Guidelines 14 CCR § 15162. In-lieus, alternatives, exceptions, or other operational rules requiring discretionary review and concurrence by the CAL FIRE are not permitted in Plan areas where operations are being conducted under Exemptions or Emergencies, regardless of whether provisions have been incorporated to address them in the approved Plan. CAL FIRE may be consulted prior to submitting the notice to ensure the Plan will not require additional mitigation measures to address substantial changes resulting from the fire, as further described below. In all instances, any operations to be conducted on substantially damaged timberlands must be reported to the Director (ref. 14 CCR §§ 1038(d)(4) or (f)(16), and 1080.2). CAL FIRE should ensure landowners, RPFs, and LTOs have

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considered PRC § 4583.2, and 14 CCR §§ 1035.1((e) and (f), and 1035.3(b) requiring knowledge of the current conditions and have reported changes that threaten attainment of the rules or implementation of the provisions of the Plan. Any change in operations resulting from such substantial changes from a fire may require full interagency review pursuant to 14 CCR § 1039 and may not be undertaken until such amendments are approved by the Director.

**PLANS - Timber Harvesting Plans (THP and MTHP), Non-Industrial Timber Management Plans (NTMP), or Program Timber Harvesting Plans (PTHP)**

Where there is an approved Plan, timber harvesting operations may continue in accordance with the provisions of the approved Plan, including the harvest of fallen, damaged, dead, or dying trees. Depending on the severity of the damage, it may be possible to implement the provisions of the Plan as approved. CAL FIRE maintains several documents on its Forest Practice webpage regarding the assessment of 'damaged' trees that can be reviewed at the following link:

[http://www.fire.ca.gov/resource\\_mgt/resource\\_mgt\\_forestpractice\\_pubsmemos\\_memos.php](http://www.fire.ca.gov/resource_mgt/resource_mgt_forestpractice_pubsmemos_memos.php).

The documents provide 'Damaged Tree Information,' as well as information on 'Risk Rating Systems' for red fir, white fir, and pine.

Where timber operations are to be conducted on any substantially damaged timberlands, the Plan Submitter must provide the Director information designating the area considered substantially damaged and describing the operations (ref. 14 CCR §§ 895.1 and 1080.2). At the time the determination is made that substantial damage has occurred to stands within the Plan area, the RPF retained by the Plan Submitter to provide professional advice pursuant to 14 CCR § 1035.1, in consultation with the LTO, should also determine if conditions have changed on the ground such that mitigation measures previously evaluated and approved are no longer sufficient to minimize the likelihood of immediate, significant and long-term harm to natural resources associated with the Plan area (ref. PRC § 4583.2, and 14 CCR §§ 1035.1((e) and (f), and 1035.3(b)). Such conditions, as well as in-lieus, exceptions and alternatives, can be addressed through the THP or NTMP amendment process, as appropriate.

If conditions other than stocking have not substantially changed, the Plan Submitter can submit a minor deviation in accordance with 14 CCR § 1040 in order to provide notice to the Director of the substantially damaged timberlands as required (ref. 14 CCR § 1080.2). For an NTMP, the required notice can be provided through a Notice of Timber Operations (ref. 14 CCR §§ 1090.6 and 1090.7).

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If the LTO or the RPF identify any environmental changes or changes to the site conditions resulting from the fire that threaten attainment of the practices outlined in the Plan or the rules, or result in the likelihood of significant adverse impacts that would require conformance with 14 CCR § 15162 (ref. CEQA Guidelines), then the Plan Submitter must be notified and an amendment to the Plan must be submitted to the Director pursuant to 14 CCR § 1039, 1090.24, or 1092.26 (i.e. substantial deviation). The “major amendment” must be approved prior to the conduct of any timber operations in the affected area(s) so that appropriate protection measures can be implemented on-the-ground to mitigate any potential significant adverse impacts. For example, additional soil stabilization measures may be needed to mitigate increased soil exposure, changes in waterbreak spacing may be needed due to significant changes in the erosion hazard rating (EHR) from the loss of surface vegetation remaining post-fire, or watercourse and lake protection zone (WLPZ) buffers may need to be widened to prevent post-fire contaminants from entering a watercourse or lake or impacting domestic water supplies.

A change in stocking requirements due to wildfire is not considered a change in the silvicultural method or system in areas determined to be substantially damaged timberlands and would not, by itself, be cause to file a substantial deviation. However, for NTMPs; PTEIRs; or THPs relying on an “Option A” document to address maximum sustained production of high quality timber products (MSP); the loss of timber due to wildfire may require an adjustment to the projections provided in the original Plan to demonstrate how growth and harvest will be balanced over time (ref. 14 CCR § 913.11, 933.11 or 953.11), and subsequently, a major amendment to the Plan may be required.

The Plan Submitter may submit in writing an explanation that changes in proposed operations normally considered substantial deviations should be considered minor deviations. In this instance, no operations are to occur under the amendment subject to the approval of the Director. The Director or the Director’s representative has five (5) working days to act on the application (ref. 14 CCR §§ 1040, 1090.25, and 1092.27). Regardless of whether minor or substantial changes are proposed, the timeline for operating on the Plan will be as specified in the original Plan approval.

Additional examples of changes likely to trigger the need for a substantial deviation pursuant to 14 CCR § 1039, 1090.14(b), or 1092.26 include, but are not limited to:

- Changes in yarding systems (harvesting practices).
- Changes in estimated erosion hazard rating (EHR) due to a decrease in protective vegetative cover.
- The need for additional soil stabilization measures for exposed soil surfaces.
- Changes to, or need for, exceptions to limitations of heavy equipment operations on steep slopes or areas near watercourses.



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- Proposed winter period operations after significant loss of surface vegetation.
- Changes in logging road, tractor road, landing, or watercourse crossing construction and/or reconstruction conditions.
- Changes in watercourse and lake protection measures.
- Changes in conditions affecting in-lieu practices, alternatives, or exceptions.
- Changes in habitat conditions affecting listed species (wildlife, botanical, and/or fisheries).
- Changes in the cumulative effects analysis, especially watershed, biological and soil productivity effects.

Furthermore, in accordance with CEQA Guidelines § 15162, CAL FIRE may determine, on the basis of substantial evidence in light of the whole Plan record, that a substantial deviation must be submitted prior to any further non-emergency timber operations on a Plan to address:

- *New significant environmental effects.*
- A substantial increase in the severity of previously identified significant effects.
- New information of substantial importance that could not have been known with exercise of reasonable diligence at the time of Plan approval regarding: (1) significant effects not previously discussed; (2) significant effects more severe than previously discussed; (3) mitigation measures or alternatives previously determined to be infeasible that are now feasible and would substantially reduce one or more significant effects; or (4) mitigation measures or alternatives which are considerably different from those analyzed previously that would substantially reduce one or more significant effects.

### ***ENFORCEMENT AND INSPECTION POLICY***

It is CAL FIRE's policy to forward all Exemption Notices, Emergency Notices, and amendments to the appropriate Administrative Unit, and other responsible Agencies, to allow for timely inspection by Forest Practice Inspectors and input from other agencies. CAL FIRE Policy (ref. PH 5463) states that Emergency Notices should be given a high inspection priority because of the short effective period. Proper enforcement action should be promptly initiated if it is discovered that the operations do not constitute an emergency or that operations are exceeding minimal impacts. This includes issuing a warning or violation, taking criminal or civil action, taking action against the Timber Operator's license, and/or filing a complaint with the RPF Examining Committee (PFEC), if appropriate.

PLEASE REMEMBER TO CONSERVE ENERGY. FOR TIPS AND INFORMATION, VISIT "FLEX YOUR POWER" AT [WWW.CA.GOV](http://WWW.CA.GOV).

## ATTACHMENT 1

### California State Laws and Regulations Pertaining to Timber Harvesting Operations On Substantially Damaged Timberlands Department of Forestry and Fire Protection (October 5, 2012)

The following provides excerpts from various laws and regulations that apply to timber operations conducted on substantially damaged timberlands. This is not a complete listing of all laws and regulations that apply. Any persons proposing to harvest trees from their timberlands should familiarize themselves with the complete text of the regulations provided below, as well any other applicable laws and regulations that have not been provided, prior to conducting any operations.

#### Excerpts from the CEQA:

##### **14 CCR § 15162. Subsequent EIRs and Negative Declarations.**

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

(c) Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.

(d) A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

#### Excerpts from the Public Resources Code:

**PRC § 4583. Standards and rules; conformance of plan; changes or modifications; exceptions.** A timber harvesting plan shall conform to all standards and rules which are in effect at the time the plan becomes effective. Except for stocking standards in effect at the time of commencement of timber operations under a timber harvesting plan, which shall remain in effect for any timberland harvested under such plan, all timber operations shall conform to any changes or modifications of standards and rules made thereafter unless prior to the adoption of such changes or modifications, substantial liabilities for timber operations have been incurred in good faith and in reliance upon the standards in effect at the time the plan became effective and the adherence to such new rules or modifications would cause

unreasonable additional expense to the owner or operator.

**PRC § 4583.2. Report of deviations in plan which threaten attainment of standards or regulations.** The registered professional forester who prepared the timber harvesting plan and or any other registered professional forester who is employed by the owner or operator, shall report to the owner and operator if there are deviations of any sort from the plan which in his judgment threaten the attainment of the resource conservation standards or other regulations promulgated pursuant to this chapter.

**PRC § 4561.6. Stocking standards applicable to operations damaged by disaster; adoption; extension of stocking time; considerations** Notwithstanding the provisions of Sections 4561 to 4561.5, inclusive, the board shall adopt rules prior to January 1, 1976, which specify standards of stocking to be maintained or established after timber operations on timberlands which have been substantially damaged by fire, insects, disease, wind, flood, or other substantial damage caused by an act of God, and may provide for an extended period of time during which stocking must be properly completed on such timberlands. In developing such standards the board shall consider circumstances that affect the feasibility of restoring the productivity of such timberlands.

**PRC § 4584. Exempt activities.** Upon determining that the exemption is consistent with the purposes of this chapter, the board may exempt from this chapter or portions of this chapter, any person engaged in forest management whose activities are limited to any of the following:

- (c) The cutting or removal of dead, dying, or diseased trees of any size.

(note: no reference to removal of 'damaged' trees under exemptions)

**PRC § 4592. Emergency notice; contents.** Notwithstanding any other provisions of this chapter, a registered professional forester may in an emergency, on behalf of a timber owner or operator, file an "emergency notice" with the department that shall allow immediate commencement of timber operations. The emergency notice shall include a declaration, under penalty of perjury, that a bona fide emergency exists which requires immediate harvest activities, and that any applicable timber yield taxes will be paid pursuant to Section 38115 of the Revenue and Taxation Code. Those emergencies shall be defined by the board and may include, but are not limited to, the necessity to harvest to remove fire-killed or damaged timber or insect or disease-infested timber, or to undertake emergency repairs to roads.

### **Excerpts from the Forest Practice Rules:**

**14 CCR § 895.1 - Substantially damaged timberlands** means areas of timberland where wildfire, insects, disease, wind, flood, or other blight caused by an act of God occurs after January 1, 1976 and the damage reduced stocking below the requirements of PRC § 4561 or other higher minimum stocking requirements that may be applicable under Articles 3 and 11 of Subchapter 4, Article 3 of Subchapter 5, and Articles 3 and 11 of Subchapter 6.

### **Article 6 Stocking Standards for Substantially Damaged Timberlands.**~~Error! Bookmark not defined.~~

#### **14 CCR § 1080 Substantially Damaged Timberlands**

*[Renumbering of section 1080 to section 895.1 operative 7-1-2000]*

#### **14 CCR § 1080.1 Stocking Requirements for Substantially Damaged Timberlands**

(a) The stocking standards to be maintained or established where substantial damage has occurred prior to the start of timber operations, or where such damage has occurred following the start of timber operations but before a stocking report has been submitted or approved by the Director, are:

(1) On Sites III and better, the stocking shall consist of at least ten countable trees planted for each live tree harvested during conduct of salvage operations following the substantial damage, but need not exceed an average point count of 300 per acre. The number of live trees harvested shall be determined by stump count or by an equivalent procedure proposed by the RPF and approved by the Department.

(2) Where only dead, down, or dying trees were salvage logged following the substantial

damage, no restocking is required.

(3) No restocking requirements need be met on substantially damaged timberlands on Sites IV and V after timber operations.

(b) If stocking standards were met, but substantial damage occurred before a report of stocking was approved by the Director, a report of stocking may be submitted and approved as specified in 14 CCR § 1080.4(a).

#### **14 CCR § 1080.2 Timber Harvesting Plans for Substantially Damaged Timberlands.** **Bookmark not defined.**

Where timber operations are to be conducted on any substantially damaged timberlands, they shall be designated and described in the Timber Harvesting Plan or the Emergency Notice of Timber Operations submitted to the Director.

#### **14 CCR § 1080.3 Stocking Distribution**

Any establishment of trees to meet the stocking requirement of 14 CCR § 1080 shall be planned to ensure the most feasible utilization of suitable and available growing space and growing stock. The location, spacing, and site preparation measures to meet this requirement shall be described in the THP as shall also the area of timberland qualifying for the stocking standards set forth herein. No more than two restocking efforts shall be required provided that such efforts are accomplished in a good and workman like manner.

#### **14 CCR § 1080.4 Stocking Reports for Substantially Damaged Timberlands**

(a) In the event that timberland becomes substantially damaged before a stocking report is submitted to the Director, a report may be submitted by the timber owner or his agent stating that the area was adequately stocked prior to the occurrence of substantial damage. A report of stocking for substantially damaged timberlands shall be a certification to the Director by a timber owner or agent thereof that the stocking requirements of 14 CCR § 1080.1 (a) and (b) have been met.

(b) The Director shall issue a satisfactory report of stocking if it can be certified, based upon first hand knowledge, that the area was adequately stocked prior to the destruction of stocking. The owner or agent may appeal the Director's denial of his certification to the Board.

(c) Should only a portion of the plan area be substantially damaged, separate stocking reports (one for the damaged area and one for the undamaged area) may be filed.

#### **14 CCR § 1080.5 Time Period to Meet Stocking Requirements**

The restocking effort required by 14 CCR § 1080.1 shall be accomplished within five years after completion of timber operations for salvage or harvest of timber from substantially damaged timberlands unless a longer period of time is needed and is approved by the Board for a specified area.

#### **14 CCR §§ 921.4 and 961.4 Stocking Requirements [Coast, Southern, STA]**

The stocking standards for understocked timberlands and substantially damaged timberlands as provided for by 14 CCR §§ 1080 through 1081.1 and 1085 through 1085.6 are not applicable in Coastal Commission Special Treatment Areas in the Coast [Southern] Forest District. After completion of timber operations one of the following stocking standards must be met:

(a) Basal Area. The average residual basal area, (measured in stems 1 in. or larger in diameter Coast) shall be at least 125 sq. ft. per acre on Site I lands, at least 100 sq. ft. per acre on Site II and Site III lands and at least 75 sq. ft. per acre on Site IV and V lands, or

(b) Point Count. The area contains an average point count as specified below:

(1) On Site I and II lands, the area contains an average point count of 450 per acre to be computed as follows:

(A) 450 countable trees per acre not more than 4 in. d.b.h.; each tree to count as 1 towards meeting stocking requirements.

(B) 150 countable trees per acre over 4 in. d.b.h. and not more than 12 in. d.b.h.; each tree to count as 3 toward meeting stocking requirements.

(C) 75 countable trees per acre over 12 in. d.b.h.; each tree to count as 6 toward meeting stocking requirements.

(2) On Site III, IV, and V lands the area contains an average point count of 300 per acre to be



computed as follows:

(A) 300 countable trees per acre not more than 4 in. d.b.h.; each tree to count as one toward meeting stocking requirements.

(B) 100 countable trees per acre over 4 in. d.b.h. and not more than 12 inches d.b.h.; each tree to count as three toward meeting stocking requirements.

(C) 50 countable trees per acre over 12 in. d.b.h.; each tree to count as six toward meeting stocking requirements.

Redwood root crown sprouts will be counted using the average stump diameter 1 ft. above average ground level of the original stump from which the redwood root crown sprouts originate, counting one sprout for each 1 ft. of stump diameter to a maximum of six per stump.

Site classification shall be determined by the RPF who prepared the plan. Rock outcroppings, meadows, wet areas, or other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from such provisions.

#### **14 CCR § 927.10 Stocking Requirements [Marin County]**

The stocking standards for understocked timberlands and substantially damaged timberlands as provided for by 14 CCR §§ 1080 through 1081.1 and 1085 through 1085.6 are not applicable in the County. After completion of timber operations one of the following stocking standards must be met:

(a) Basal Area: The average residual basal area, measured in stems 1 in. or larger in diameter shall be at least 125 sq. ft. per acre on Site I lands, at least 100 sq. ft. per acre on Site II and Site III lands and at least 75 sq. ft. per acre on Site IV and V lands, or

(b) Point Count: The area contains an average point count as specified below:

(1) On Site I and II lands, the area contains an average point count of 450 per acre to be computed as follows:

(A) 450 countable trees per acre not more than 4 inches d.b.h.; each tree to count as one towards meeting stocking requirements.

(B) 150 countable trees per acre over 4 in. d.b.h. and not more than 12 in. d.b.h.; each tree to count as three toward meeting stocking requirements.

(C) 75 countable trees per acre over 12 in. d.b.h.; each tree to count as six toward meeting stocking requirements.

(2) On Site III, IV and V lands the area contains an average point count of 300 per acre to be computed as follows:

(A) 300 countable trees per acre not more than 4 inches d.b.h.; each tree to count as one toward meeting stocking requirements.

(B) 100 countable trees per acre over 4 inches d.b.h. and not more than 12 inches d.b.h.; each tree to count as 3 towards meeting stocking requirements.

(C) 50 countable trees per acre over 12 in. d.b.h.; each tree to count as six toward meeting stocking requirements.

Redwood root crown sprouts will be counted using the average stump diameter 1 ft. above average ground level of the original stump from which the redwood root crown sprouts originate, counting one sprout for each 1 ft. of stump diameter to a maximum of six per stump. Site classification shall be determined by the forester (RPF) who prepared the plan. Rock outcroppings, meadows, wet areas, or other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from such provisions.

### **Exemptions**

#### **14 CCR § 1038 Exemption**

Persons who conduct the following types of timber operations are exempt from the plan preparation and submission requirements (PRC § 4581) and from the completion report and stocking report requirements (PRC §§ 4585 and 4587) of the Act with the following exceptions and requirements:

(i) no tree that existed before 1800 A.D and is greater than sixty (60) inches in diameter at stump height for Sierra or Coastal Redwoods, and forty-eight (48) inches in diameter at stump height for all other tree species shall be harvested unless done so under the conditions or criteria set forth in subsection 1038(h).

(ii) all timber operations conducted in the Lake Tahoe Region pursuant to 14 CCR § 1038 must have a valid Tahoe Basin Tree Removal Permit (as defined by the Tahoe Regional Planning Agency) or shall be conducted under a valid TRPA Memorandum of Understanding (MOU), when such a permit is required by TRPA.

(b) Harvesting dead, dying or diseased trees of any size, fuelwood or split products in amounts less than 10% of the average volume per acre when the following conditions are met:

(1) No tractor or heavy equipment operations on slopes greater than 50%.

(2) No construction of new tractor roads on slopes greater than 40%.

(3) Timber operations within any Special Treatment Area, as defined in 14 CCR 895.1, shall comply with the rules associated with that Special Treatment Area.

(4) No tractor or heavy equipment operations on known slides or unstable areas.

(5) No new road construction or reconstruction, as defined in 14 CCR 895.1.

(6) No heavy equipment operations within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4, 956.4](b), except for maintenance of roads and drainage facilities or structures.

(7) No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.

(8) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR 895.1.

(9) No timber harvesting within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4, 956.4](b), except sanitation-salvage harvesting, as defined in 14 CCR 913.3 [933.3,953.3], where immediately after completion of operations, the area shall meet the stocking standards of 14 CCR 912.7 [932.7,952.7](b)(2), or, except the removal of dead or dying trees where consistent with 14 CCR 916.4 [936.4,956.4] (b). Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.

(10) No timber operations on any site that satisfies the criteria listed in 895.1 for a significant archaeological or historical site. Information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation.

(d) The limit of 10% of the volume per acre in (b) above does not apply when harvesting dead trees which are unmerchantable as sawlog-size timber from substantially damaged timberlands, as defined in 14 CCR 895.1, and the following conditions are met:

(1) Timber operations shall comply with the limits established in 14 CCR 1038(b)(1)-(10)

(2) The landowner shall notify the Director of the completion of timber operations within 30 days of their cessation.

(3) At least one inspection conducted by the Director shall be made after completion of operations (Section 4604 PRC).

(4) The RPF certifies that the timberland is substantially damaged.

(5) The RPF shall also certify that no conditions were identified where operations, conducted in compliance with the rules of the Board, would reasonably result in significant adverse effects.

(e) Operations pursuant to an exemption under subsection (c), (d) and (i) may not commence for five working days from the date of the Director's receipt of the Notice of Exemption unless this delay is waived by the Director, after consultation with other state agencies. The Director shall determine whether the Notice of Exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter. If the Notice of Exemption is not complete and accurate, it shall be returned to the submitter and the timber operator may not proceed. If the Director does not act within five days of receipt of the Notice of Exemption, timber operations may commence.

(f) Timber operations conducted in the Lake Tahoe Region authorized under PRC § 4584 (b), (c), and (j) when the following conditions are met:

(1) Tree removal on high erosion hazard lands (Bailey's Land Capability Districts 1a, 1c, or 2 per Land Capability Classification of the Lake Tahoe Basin, California-Nevada: A Guide for Planning by R.G. Bailey, USDA Forest Service, 1974) shall only be conducted using the following methods: helicopter, over-snow where no soil disturbance occurs, hand carry, and use of existing roads.

(2) Tree removal in Stream Environment Zones ("SEZs", Bailey's Land Capability District 1b) and within the standard width of a WLPZ, as defined in 14 CCR § 895.1, shall be permitted as in the preceding section (f)(1).

**(A)** End-lining may also be used provided that soils are dry, all heavy equipment remains outside the SEZ or WLPZ, and site conditions are such that soils or vegetation will not be adversely affected and a discharge of earthen materials to surface waters, SEZs, or 100-year floodplains will not occur.

**(B)** Other low-impact tree removal methods may be used in SEZs and WLPZs if approved by the Lahontan RWQCB prior to submittal of the exemption notice to the Department. Certification of approval by the Lahontan RWQCB and TRPA shall be provided with the exemption notice to the Department. Low-impact tree removal methods means the use of techniques for vegetation management, including tree cutting or removal, designed to minimize impacts to the soils and vegetation. Such techniques shall minimize disruption of the soil surface (soil detachment), soil compaction, and damage to vegetation. Depending on the specific site conditions (e.g. soil type, soil conditions, slopes) and the method of operation, the use of low-ground pressure logging equipment, including but not limited to, certain harvesters and forwarders, may qualify.

**(C)** Heavy equipment operations may be used for maintenance of existing roads, maintenance of drainage facilities or structures, or skid crossings approved pursuant to (f)(9) below.

**(3)** No tractor or heavy equipment (ground-based) operations on slopes greater than 30% except during over-snow operations that result in no soil disturbance.

**(4)** No heavy equipment operations during the winter period, except for over-snow operations that result in no soil disturbance, or use of low-impact tree removal methods approved pursuant to (f)(2) above.

**(5)** No new road construction or reconstruction, as defined in 14 CCR § 895.1.

**(6)** No tractor or heavy equipment operations on known slides or unstable areas.

**(7)** All cutting or removal of trees or other vegetation from within the standard width of a WLPZ shall meet the WLPZ standards of the Forest Practice Act and District Forest Practice Rules applicable to THPs, and be certified in writing by staff of the Lahontan RWQCB as complying with the soil protection and vegetation retention requirements of the Lahontan RWQCB's Basin Plan prior to submittal of the exemption notice to the Department. Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.

**(8)** All Class III watercourses shall have at least a 25-foot WLPZ.

**(9)** No watercourse crossings of Class I or Class II watercourses except on existing bridges or existing culvert crossings. Any and all crossings proposed for Class III or Class IV watercourses shall be approved by staff of the Lahontan RWQCB and TRPA prior to operations.

**(10)** No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.

**(11)** No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR § 895.1.

**(12)** No timber operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a significant historical or archaeological site. Information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation.

**(13)** The landowner shall allow access to the property for inspections by staff of the Lahontan RWQCB and TRPA.

**(14)** Timber operations within any Special Treatment Area, as defined in 14 CCR § 895.1, shall comply with the rules associated with Special Treatment Areas.

**(15)** Operations conducted in the Lake Tahoe Region under the authority of PRC § 4584(j) shall comply with requirements listed in section 14 CCR § 1038(c)(1) through (4) and within a 15 day period before beginning timber operations, the timber operator shall notify CDF of the actual start of operations.

**(16)** Operations conducted in the Lake Tahoe Region for the purpose of removing unmerchantable dead trees in amounts greater than 10% of the volume per acre from substantially damaged timberlands shall comply with 14 CCR § 1038(d)(2) through (5).

**(h)** Harvesting of large old trees shall only occur when:

**(1)** the tree is not critical for the maintenance of a Late Successional Stand and

**(2)** an RPF attaches to the exemption an explanation and justification for the removal based on the RPF's finding that one or more of the criteria or conditions listed under subsection (A), (B), or (C) are met. . . .

. . . All trees to be harvested pursuant to this subsection shall be marked by an RPF prior to removal.

(C) The tree is dead or is likely to die within one year of the date of proposed removal, as determined by an RPF or professionally certified arborist.

#### **14 CCR § 961.2 Exemptions from Timber Harvesting Plan Requirements**

Notwithstanding 14 CCR 1038, exemptions from plan filing requirements in the Coastal Commission Special Treatment Areas shall only be allowed for minor operations where no live trees are cut.

#### **14 CCR §§ 916.9, 936.9, and 956.9 Protection and Restoration of the Beneficial Functions of the Riparian Zone in Watersheds with Listed Anadromous Salmonids.**

In addition to all other district Forest Practice Rules, the following requirements shall apply in any watershed with listed anadromous salmonids. Requirements of 14 CCR § 916.9 [936.9, 956.9] precede other sections of the FPRs.

(s) **Exemption notices** - 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:

- (1) Hauling on existing roads.
- (2) Road maintenance.
- (3) Operations conducted for public safety.
- (4) Construction or reconstruction of approved watercourse crossings.
- (5) Temporary crossings of dry Class III watercourses that do not require notification under Fish and Game Code §1600 et seq.
- (6) Harvesting recommended in writing by DFG to address specifically identified forest conditions.

(u) **Salvage logging** - No salvage logging is allowed in a WLPZ without an approved HCP, a PTEIR, an SYP, or an approved plan that contains a section that sets forth objectives, goals, and measurable results for streamside salvage operations.

- (1) This section does not apply to emergency operations under 14 CCR § 1052.

#### **14 CCR § 1035 Plan Submitter Responsibility**

The plan submitter, or successor in interest, shall:

- (d) (1) Retain an RPF who is available to provide professional advice to the LTO and timberland owner upon request throughout the active timber operations regarding:
  - (A) the plan,
  - (B) the Forest Practice Rules, and
  - (C) other associated regulations pertaining to timber operations,

#### **14 CCR § 1035.1 Registered Professional Forester Responsibility**

(e) An RPF retained by the plan submitter to provide professional advice throughout the timber operations shall be present, or ensure that the RPF's supervised designee is present, on the logging area at a sufficient frequency to know the progress of operations and advise the LTO and timberland owner, but not less than once during the life of the plan.

(f) An RPF retained by the plan submitter to provide professional advice throughout the timber operations shall inform the LTO during operations of any mitigation measures incorporated into the plan that are intended to address operations that have a high likelihood of resulting in immediate, significant and long-term harm to the natural resources of the State if such mitigation measures are not strictly applied to minimize such impacts.

#### **14 CCR § 1035.3 Licensed Timber Operator Responsibilities**

Each affected licensed Timber Operator shall:

- (b) Inform the responsible RPF or plan submitter, whether in writing or orally, of any site conditions which in the LTO's opinion prevent implementation of the approved plan including amendments.
- (c) Be responsible for the work of his or her employees and familiarize all employees with the intent and details of the operational and protection measures of the plan and amendments that apply to their work.
- (e) Comply with all provisions of the Act, Board rules and regulations, the applicable approved plan and any approved amendments to the plan.
- (h) Keep the RPF responsible for professional advice throughout the timber operations advised of the status of timber operation activity.



## **Emergencies**

**14 CCR § 895.1 Confidential Archaeological Letter** means the archaeological and historical resources survey and impact assessment prepared for an Emergency Notice covering three acres or more in size. It is included with the submittal of the Emergency Notice to the Director and contains all information required by 14 CCR § 929.1 [949.1, 969.1] (c)(2), (7), (8), (9), (10), and (11), including site records, as required pursuant to 14 CCR §§ 929.1 [949.1, 969.1] (g) and 929.5 [949.5, 969.5]. The information may be presented in either a letter or report format. It is confidential to the extent permitted pursuant to Government Code §§ 6254(r) and 6254.10 and shall not be included in any document provided to the public.

**14 CCR § 895.1 Emergency** means those conditions that will cause waste or loss of timber resources to the timber owner that may be minimized by immediate harvesting of infected, infested or damaged timber or salvaging down timber; or those conditions that will cause appreciable financial loss to the timber owner that may be minimized by immediate harvesting of timber.

**14 CCR § 895.1 Watersheds with Listed Anadromous Salmonids** means any planning watershed where populations of anadromous salmonids that are listed as threatened, endangered, or candidate under the State or Federal Endangered Species Acts are currently present or can be restored.

### **14 CCR §§ 916.3, 936.3, and 956.3 General Limitations Near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas [All Districts]**

The quality and beneficial uses of water shall not be unreasonably degraded by timber operations . . . .

(c) The timber operator shall not construct or reconstruct roads, construct or use tractor roads or landings in Class I, II, III or IV watercourses, in the WLPZ, marshes, wet meadows, and other wet areas . . . except as follows:

- (1) At prepared tractor road crossings as described in 914.8(b) [934.8(b), 954.8(b)].
- (2) Crossings of Class III watercourses which are dry at the time of timber operations.
- (3) At existing road crossings.
- (4) At new tractor and road crossings approved as part of the Fish and Game Code process (F&GC 1600 et seq.).

### **14 CCR §§ 916.9, 936.9, and 956.9 Protection and Restoration of the Beneficial Functions of the Riparian Zone in Watersheds with Listed Anadromous Salmonids.**

In addition to all other district Forest Practice Rules, the following requirements shall apply in any watershed with listed anadromous salmonids. Requirements of 14 CCR § 916.9 [936.9, 956.9] precede other sections of the FPRs.

(t) **Emergency notices** - No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under emergency notices except for:

- (1) Hauling on existing roads.
- (2) Road maintenance.
- (3) Operations conducted for public safety.
- (4) Construction or reconstruction of approved watercourse crossings.
- (5) Temporary crossings of dry Class III watercourses that do not require notification under Fish and Game Code §1600 et seq.
- (6) Harvesting recommended in writing by DFG to address specifically identified forest conditions.
- (7) The harvest of dead or dying conifer trees subject to the following conditions:
  - (A) Retention of all trees in the core zone of Class I and Class II-L watercourses.
  - (B) Within any WLPZ, ELZ, or EEZ designated for Class II or III watercourse protection, a minimum of two dead, dying, or diseased conifer trees per acre at least 16 inches diameter breast high and 50 feet tall shall be retained within 50 feet of the watercourse transition line.
  - (C) Trees to be harvested or retained shall be marked by, or under the supervision of, an RPF prior to timber operations within the WLPZ or ELZ/EEZ.

**(D)** Within the WLPZ or ELZ/EEZ, if the stocking standards of 14 CCR § 912 [932, 952].7 are not met upon completion of timber operations, unless the area meets the definition of substantially damaged timberlands, at least ten trees shall be planted for each tree harvested but need not exceed an average point count of 300 trees per acre.

**(u)** Salvage logging - No salvage logging is allowed in a WLPZ without an approved HCP, a PTEIR, an SYP, or an approved plan that contains a section that sets forth objectives, goals, and measurable results for streamside salvage operations.

**(1)** This section does not apply to emergency operations under 14 CCR § 1052.

**14 CCR §§ 929.1, 949.1, and 969.1 Plan, and Emergency Notice Preparation**

**(e)** Emergency Notice of 3 Acres Or More.

**(1)** Prior to submitting an Emergency Notice of three acres or more, the RPF:

**(A)** Shall ensure that an archaeological field survey is, or has been previously conducted by a professional archaeologist or person with archaeological training (pursuant to 14 CCR § 929.4 [949.4, 969.4]) within the site survey area.

**(2)** Prior to submitting an Emergency Notice of three acres or more, the RPF or the RPF's supervised designee:

**(A)** Shall complete a current archaeological records check. This check may be conducted by telephone. If the Information Center is unable to provide the information within three business days following receipt of an RPF's request for an Emergency Notice records check, the records check requirement is waived.

**(B)** Shall submit a Confidential Archaeological Letter that includes the information required by 14 CCR § 929.1 [949.1, 969.1](c) (2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR § 929.1 [949.1, 969.1](g) and 929.5 [949.5, 969.5].

**(C)** Shall send a copy of the Emergency Notice to Native Americans.

**14 CCR §§ 929.1, 949.1, and 969.1(c) (2), (7), (8), (9), (10) and (11) Archaeological Records Check Information**

**14 CCR §§ 929.1, 949.1, and 969.1(c) (2)** A copy of the records check and written reply (including mapped information) from the Information Center shall be attached, or a justification as to why that is not possible shall be included.

**(A)** If the records check request and written reply from the Information Center are attached, no additional information is required.

**(B)** If the records check request and written reply from the Information Center are not attached, the following information shall be included:

**(1)** Justification why records check request and written reply could not be attached.

**(2)** The date the records check was conducted at the Information Center.

**(3)** The Information Center File Number.

**(4)** Summary of records check results discussing whether or not archaeological or historical sites are known or suspected to exist within the site survey area and whether or not the site survey area has a previous archaeological investigation on record.

**14 CCR §§ 929.1, 949.1, and 969.1(c) (7)** Description of archaeological survey methods and procedures including survey strategy, time spent conducting archaeological field survey, the date or dates the survey was conducted, survey coverage intensity, and ground visibility or other limitations.

**14 CCR §§ 929.1, 949.1, and 969.1(c)(8)** A list and description of all archaeological or historical sites identified within the site survey area including information on the site(s) size, type, and condition. The designations used in this listing of sites found shall be consistently used throughout the CAA.

**14 CCR §§ 929.1, 949.1, and 969.1(c) (9)** An Archaeological Coverage Map or maps prepared in accordance with the specifications identified in the definition of an Archaeological Coverage Map in 14 CCR § 895.1

**14 CCR §§ 929.1, 949.1, and 969.1(c) (10)** A preliminary determination of significance of identified archaeological and historical sites, if damaging effects from timber operations cannot be avoided. This determination shall be based upon the criteria for a significant archaeological or historical site listed in 14 CCR § 895.1.

**14 CCR §§ 929.1, 949.1, and 969.1(c) (11)** Description of any specific enforceable protection measures to be implemented both within the site boundaries and within 100 feet of the site boundaries.

**14 CCR §§ 929.1, 949.1, and 969.1 Plan, and Emergency Notice Preparation**

**(f) Emergency Notice of Less Than 3 Acres.**

**(1)** Prior to submitting an Emergency Notice of less than three acres, the RPF or the RPF's supervised designee shall:

**(A)** Conduct an archaeological survey for said area to determine whether it contains any significant archaeological sites using the criteria for a significant archaeological or historical site defined in 14 CCR § 895.1.

**(B)** Send a copy of the Notice to Native Americans.

**(2)** An archaeological records check, Confidential Archaeological Addendum, or Confidential Archaeological Letter, is not required.

**(3)** No timber operations shall occur within the boundaries of any significant archaeological or historical sites as determined by the RPF or the RPF's supervised designee.

**(g) Submitting Archaeological and Historical Information to Information Centers.**

Within 30 days following the Director's approval of a plan or acceptance of an Emergency Notice of three acres or larger, the Director shall send to the appropriate Information Center of the California Historical Resource Information System the following information provided by the RPF:

**(1)** a complete Confidential Archaeological Addendum which includes all changes and additions required in the plan review process and which identifies the plan number, or, for Emergency Notices of three acres or larger, a Confidential Archaeological Letter.

**(2)** two copies each of any completed archaeological or historical site records for:

**(A)** archaeological sites determined to be significant, or

**(B)** sites that a person elects to record, but for which no determination of significance

has been made.

The records shall be completed by a person who satisfies the requirements specified in 14 CCR §§ 929.4 [949.4, 969.4] in a manner consistent with the recording standards identified in the State Office of Historic Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference.

**(3)** The RPF or supervised designee shall ensure that the site records are completed in the manner specified in subsection (2).

**14 CCR §§ 929.2, 949.2, and 969.2 Protection Measures for Plans and Emergency Notices 3 Acres and Larger**

**(a) (1)** The RPF shall describe in the separate Confidential Archaeological Addendum or Letter, measures to be taken to mitigate or avoid substantial adverse change to any known significant archaeological or historical sites.

**(2)** The RPF may propose, and the Director may agree to, site specific protection measures for any identified archaeological or historical site without evaluating the significance of the site. These proposed protection measures shall be designed to ensure protection of such archaeological and historical sites from damaging effects. Avoidance of activities which will cause damaging effects is a preferred protection measure.

**(b)** The RPF or supervised designee familiar with on-site conditions shall meet with the LTO prior to the start of timber operations at each archaeological or historical site that is described in the plan or notice that requires avoidance or other protection measures and do the following:

**(1)** show the LTO the location, extent and boundaries of each archaeological or historical site requiring protection,

**(2)** discuss with the LTO the protection measures,

**(3)** apprise the LTO of the confidentiality requirements for any information concerning the physical location of archaeological or historical sites.

(c) If the RPF or supervised designee is unable to perform the duties in 14 CCR § 929.2 [949.2, 969.2](b), the RPF shall:

- (1) explain the reasons in the emergency notice, plan, or as a minor amendment to the plan,
- (2) (A) meet with the plan submitter, timberland owner, or their authorized agent, and review in the field, the items described in 14 CCR § 929.2 [949.2, 969.2](b),  
(B) if the plan submitter, timberland owner, or their authorized agent will not comply with the RPF's or RPF's supervised designee's request for a meeting, the RPF shall notify the Director.
- (3) except for an emergency notice, notify the plan submitter in writing that it is the plan submitter's responsibility to transfer the information in 14 CCR § 929.2 [949.2, 969.2](b) to the LTO per 1035(h),
- (4) notify the Director in writing.

(d) The LTO shall not conduct timber operations within the boundaries of any archaeological or historical site identified in the CAA unless such operations are described in the CAA and made part of the plan approved by the Director.

(e) In the event that the CAA authorizes limited timber operations within the boundaries of archaeological or historical sites identified in the plan, the LTO and the RPF, if so stated in the plan, shall be responsible for ensuring that specific protection measures and timber operations are conducted in the manner described in the CAA.

#### 14 CCR § 1052 Emergency Notice

(a) Before cutting or removing timber on an emergency basis, an RPF on behalf of a timber owner or operator shall submit a Notice of Emergency Timber Operations to the Director, on form RM-67 (1/1/10), or form RM-65 (1052.4)(1/1/10) for a Fuel Hazard Reduction emergency, as prescribed by the Director. The notice shall include, but not be limited to, the following:

(2) A description of the specific conditions that constitute the emergency, its cause, extent and reason for immediate commencement of timber operations.

(7) A declaration by the RPF, made under penalty of perjury, that a bona fide emergency exists which requires emergency timber operations.

(10) For Emergency Notices covering three acres or more in size, the RPF shall include a Confidential Archaeological Letter with the Emergency Notice submitted to the Director. The Confidential Archaeological Letter shall include all information required by 14 CCR § 929.1 [949.1, 969.1](c)(2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR § 929.1 [949.1, 969.1](g) and 929.5. The Director shall also submit a complete copy of the Confidential Archaeological Letter and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of Emergency Notice submittal to the Director. Prior to submitting the emergency notice to the Director the RPF shall send a copy of the emergency notice to Native Americans as defined in 14 CCR § 895.1.

(b) Timber operations pursuant to an emergency notice shall comply with the rules and regulations of the Board. A person conducting timber operations under an Emergency Notice shall comply with all operational provisions of the Forest Practice Act and District Forest Practice Rules applicable to "Timber Harvest Plan", "THP", and "plan".

(c) In-lieu practices for watercourse and lake protection zones as specified under Article 6 of the rules, exceptions to rules, and alternative practices are not allowed unless necessary to protect public health and safety.

(d) Timber operations pursuant to an Emergency Notice may not commence for five working days . . . .

(e) Timber operations shall not continue beyond 1 year from the date the Emergency Notice is accepted . . . except for burning operations to treat fuels in accordance with § 1052.4(d)(6) which shall be completed by April 1 of the year following fuel creation.

#### 14 CCR § 1052.1 Emergency Conditions

The following are conditions that constitute an emergency pursuant to 14 CCR 895.1:

- (a) Trees that are dead or dying as a result of insects, disease, parasites, or animal damage.
- (b) Trees that are fallen, damaged, dead or dying as a result of wind, snow, freezing weather, fire, flood, landslide or earthquake.
- (d) Cutting or removing trees required for emergency construction or repair of roads.



**14 CCR § 1052.2 Emergency Substantiated by RPF**

The RPF preparing the Notice of Emergency Timber Operations 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. Where tree killing insects have killed and are likely to kill trees within one year on timberland an emergency is presumed to exist. Trees will be considered likely to die when they are determined, by an RPF, to be high risk by either:

(a) Risk classification systems including Smith et al., 1981; The California Pine Risk-Rating System: Its Development, Use, and Relationship to Other Systems; In Hazard-Rating Systems in Forest Insect Pest Management, Hedden et al, eds. USDA Forest Service General Technical Report WO - 27, pp. 53-69; Ferrell. 1989; Ten-Year Risk-Rating Systems for California Red Fir and White Fir: Development and Use; USDA Forest Service General Technical Report PSW-115, 12p.; or similar risk-rating systems recognized by the profession; or

(b) Where evidence of a current beetle attack exists (i.e., existence of boring dust, woodpecker feeding, or recent top kill) and these trees are within 100 feet of multiple tree kills. Such trees shall be marked by an RPF or the supervised designee before felling.

**14 CCR § 1052.3 Emergency Notice For Insect Damaged Timberlands**

Emergency timber operations, under the presumed emergency standard of 14 CCR 1052.2, may be commenced provided an RPF is responsible for an on-site inspection, and tree marking when required by subsection (a):

(a) The emergency notice used with this section is to be used only for the harvesting of dead trees and those dying because of insect attack. Trees with green crowns that are to be harvested must be under insect attack which is likely to lead to mortality within one year, and shall be stump marked or otherwise designated by an RPF prior to cutting.

**14 CCR § 1090.7 Notice of Timber Operations Content**

The purpose of the Notice of Timber Operations is to provide guidance for implementation of the standards and protective measures in the approved NTMP or most recent amended NTMP and the applicable rules of the Board. For the Notice to serve these functions, it shall as a minimum, contain the following:

(i) A statement that there have been no physical environmental changes in the cumulative impacts assessment area that are so significant as to require any amendment of the NTMP.

**Deviations, Amendments, and Notice of Timber Operations**

**14 CCR § 895.1 Substantial Deviation** means changes that are not "minor deviations" as defined in 895.1 and are presumed to be substantial deviations because they could significantly affect the conduct of timber operations and potentially could have a significant adverse [effect] on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation and aesthetic enjoyment. Such actions include, but are not limited to:

- (1) Change in location of timber harvesting operations or enlargement of the area to be cut.
- (2) Change in the silvicultural method and cutting system on any portion of the plan area.
- (3) Change in type or location of logging (yarding) system or basic type of equipment.
- (4) Change in location, nature or increase in length of proposed logging roads incorporating one

or more of the following criteria:

(A) Any road in the Watercourse and Lake Protection Zone or where sidecast will extend into the Watercourse and Lake Protection Zone.

(B) Any road located in an extreme Erosion Hazard Rating area in the Coast Forest District, extreme Estimated Erosion Potential area in the Northern Forest District, or a high Erosion Potential area in the Southern Forest District.

(C) Any road where the average side slope exceeds 50%.

(D) Any road where unstable areas, active soil movement, or slide areas must be traversed.

(E) Any increase in gradient allowed by the District Rules as an exception and not provided for in the original plan.

- (F) Any road extension of more than 600 feet (182.9 m).
- (5) Any use of existing roads not shown in the original plan when reconstruction work to allow for vehicle travel will be substantial. Substantial work on an existing road means more than minor repair and dressing of the travel surface and removal of vegetation to allow for vehicle passage.
- (6) Use of any roads not shown in the plan which would affect the key habitat of rare or endangered species or other critical wildlife habitat.
- (7) Enlargement of landings where such enlargement was not justified in the original plan.
- (8) Any change of operation in, or designation of, the Watercourse and Lake Protection Zone.
- (9) Any downgrading of stream classification.
- (10) A change to winter operation where summer operations was previously specified.

#### **14 CCR § 1039 Amendment**

Amendments proposing substantial deviation from an original plan shall be submitted to the Director in writing by the person who submitted the original plan, or the successor in interest. Substantial deviations shall not be undertaken until such amendment has been filed and acted upon by the Director in the manner as required in Article 2 of Subchapter 7 of these rules for the original plan.

#### **14 CCR § 1040 Report Minor Deviations**

Minor deviations may be undertaken by the person who submitted the plan without submission of an amendment to the plan and shall be reported immediately in writing to the Director.

Actions described in 14 CCR 895.1 which are normally presumed to be substantial deviations may, in a given instance, be minor deviations. Actions listed as substantial deviations in 14 CCR 895.1 but considered to be minor by the submitter, may be undertaken only if the person who submitted the plan submits the proposed deviation in writing to the Director for review and receives approval. Approval shall be given if the Director determines that the proposed minor deviation conforms to the standards provided in 14 CCR 895.1. The Director shall have five (5) working days to act on the application. If the Director or the Director's representative does not act within five (5) working days of receipt of such a deviation, timber operations may commence pursuant to such amendment.

#### **14 CCR § 1090.14 NTMP Deviations**

(a) "Minor deviations" means any change, minor in scope, in a plan which can reasonably be presumed not to make a significant change in the conduct of timber operations and which can reasonably be expected not to significantly adversely affect timberland productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment or to result in a violation of the applicable water quality control plan.

(b) All other changes are presumed to be substantial deviations because they could significantly affect the conduct of timber operations and potentially could have a significant adverse effect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment. Such actions include, but are not limited to:

- (1) Change in location of timber harvesting operations or enlargement of the area or volume planned to be cut.
- (2) Change in the silvicultural method and cutting system on any portion of the plan area.
- (3) Change in type or location of logging (yarding) system or basic type of equipment.
- (4) Change in location, nature or increase in length of proposed logging roads incorporating one or more of the following criteria:

(A) Any road in a Watercourse or Lake Protection Zone or where sidecast will extend into the Watercourse or Lake Protection Zone.

(B) Any road located in an extreme Erosion Hazard Rating area.

(C) Any road where the average side slope exceeds 50%.

(D) Any road where unstable areas, active soil movement, or slide areas must be traversed.

(E) Any increase in gradient allowed by the District Rules as an exception and not provided for in the original plan.

(F) Any road extension of more than 600 ft. (182.9m).

(5) Any use of existing roads not shown in the original plan when reconstruction work to allow for vehicle travel will be substantial. Substantial work on an existing road means more than minor repair and

dressing of the travel surface and removal of vegetation to allow for vehicle passage.

- (6) Use of any roads not shown in the plan which would affect the key habitat of rare or endangered species or other critical wildlife habitat.
- (7) Enlargement of landings where such enlargement was not justified in the original plan.
- (8) Any change of operation in, or designation of, the Watercourse or Lake Protection Zone.
- (9) Any downgrading of Watercourse classification.
- (10) A change to winter operation where summer operation was previously specified.

#### **14 CCR § 1090.24 Amendment**

Amendments proposing substantial deviation from an original plan shall be submitted to the Director in writing by the person who submitted the original plan, or the successor in interest. Substantial deviations shall not be under taken until such amendment has been filed and acted upon by the Director in the manner as required in Article 6.5 of Subchapter 7 of these rules for the original plan.

#### **14 CCR § 1090.25 Report Minor Deviations**

Minor deviations may be undertaken by the person who submitted the NTMP or Notice without submission of an amendment to the plan and shall be reported immediately in writing to the Director.

Actions described in 14 CCR 1090.14 which are normally presumed to be substantial deviations may, in a given instance, be minor deviations. Actions listed as substantial deviations in 14 CCR 1090.14 but considered to be minor by the submitter, may be undertaken only if the person who submitted the plan submits the proposed deviation in writing to the Director for review and receives approval.

Approval shall be given if the Director determines that the proposed minor deviation conforms to the standards provided in 14 CCR 1090.14(a). The Director shall have 5 working days to act on the application. If the Director or the representative of the Director does not act within 5 working days of receipt of such a deviation, timber operations may commence pursuant to such amendment.

#### **14 CCR § 1092.26 Amendment**

Changes that are not "minor deviations" as defined in 14 CCR 895.1 are presumed to be substantial deviations if they potentially could have a significant adverse affect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation and aesthetic enjoyment that are beyond impacts identified in the PTEIR. Such actions may include, but are not limited to:

- (a) Change in location of timber harvesting operations or enlargement of the area to be cut.
- (b) Change in the silvicultural method and cutting system on any portion of the PTHP area.
- (c) Change in type or location of logging (yarding) system or basic type of equipment.
- (d) Change in location, nature or increase in length of proposed logging roads incorporating one or more of the following criteria:
  - (1) Any road in the Watercourse and Lake Protection Zone or where sidecast will extend into the Watercourse and Lake Protection Zone.
  - (2) Any road located in an extreme Erosion Hazard Rating area in the Coast Forest District, extreme Estimated Erosion Potential area in the Northern Forest District, or a high Erosion Potential area in the Southern Forest District.
  - (3) Any road where the average side slope exceeds 50%.
  - (4) Any road where unstable areas, active soil movement, or slide areas must be traversed.
  - (5) Any increase in gradient allowed by the District Rules as an exception and not provided for in the original PTHP.
  - (6) Any road extension of more than 600 feet (182.9 m).
- (e) Any use of existing roads not shown in the original PTHP when reconstruction work to allow for vehicle travel will be substantial. Substantial work on an existing road means more than minor repair and dressing of the travel surface and removal of vegetation to allow for vehicle passage.
- (f) Enlargement of landings where such enlargement was not justified in the original PTHP.
- (g) Any change of operation in, or designation of, the Watercourse and Lake Protection Zone.
- (h) Any downgrading of stream classification.
- (i) A change to winter operation where summer operations was previously specified.
- (j) Amendments proposing timber operations in a PTHP which would place the PTHP outside the scope of the PTEIR must be considered under 14 CCR 1092.01 (d).

(k) Substantial deviations shall not be undertaken until such amendment has been filed and approved by the Director as required by this Article for the original PTHP.

#### **14 CCR § 1092.27 Report Minor Deviations**

(a) Minor deviations as described in 14 CCR 895.1 shall be submitted in writing to the Director before undertaking the deviation. Actions described in 14 CCR 1092.26 which are normally presumed to be substantial deviations may, in a given instance, be minor deviations. Actions listed as substantial deviations in 14 CCR 1092.26 or discussed in the PTEIR that are considered to be minor by the submitter may be undertaken only if requested in writing to and approved by the Director.

(b) The Director shall have five working days to determine if the proposed deviation is substantial or minor. Upon the date of receipt, the Director shall send copies of the proposed deviation to the Department of Fish and Game, the California Regional Water Quality Control Board, the Department of Conservation, Division of Mines and Geology [California Geological Survey], and any County which has special rules adopted under Section 4516.5 of the Public Resources Code.

(c) Where the Director fails to act within the five day period or a determination is made that the proposed deviation is minor, work may commence.

(d) Where the Director determines the proposed deviation is substantial, the review process in 14 CCR 1092.18 will be followed.

#### **14 CCR § 1090.6 Notice of Timber Operations**

Following confirmation by the non-industrial tree farmer that all necessary field work is functional and useable (including flagging or marking), the non-industrial tree farmer who owns, leases, or otherwise controls or operates on all or any portion of any timberland within the boundaries of an approved Timber Management Plan shall submit a Notice of Timber Operations including the certification required by PRC 4594.6 to the appropriate office of the Department. Timber operations may commence immediately unless the notice has been filed by mailing, in which case operations may commence three days after the notice has been mailed.

#### **14 CCR § 1090.7 Notice of Timber Operations Content**

The purpose of the Notice of Timber Operations is to provide guidance for implementation of the standards and protective measures in the approved NTMP or most recent amended NTMP and the applicable rules of the Board. For the Notice to serve these functions, it shall as a minimum, contain the following:

#### **14 CCR §§ 913.11, 933.11, and 953.11 Maximum Sustained Production of High Quality Timber Products**

The goal of this section is to achieve Maximum Sustained Production of High Quality Timber Products (MSP). MSP is achieved by meeting the requirements of either (a) or (b) or (c) in a THP, SYP or NTMP, or as otherwise provided in Article 6.8, Subchapter 7.

#### **14 CCR § 901 Timber Harvesting Plan Decision Delay**

. . . In relation to ascertaining harm to the natural resources of the state, the words immediate, significant and long-term shall be construed to mean:

(a) "Immediate"- a period of time from the present to some future date that shall not be later than the end of the third timber harvest season following commencement of timber operations under a proposed plan.

(b) "Significant"- harm or damage which is substantial and threatens the use of forest-related benefits (i.e., other beneficial uses of the air, water, soil, fish or wildlife resources).

(c) "Long-term"- harm or damage that is of such a nature and of lasting duration which cannot be corrected within 3 timber harvest seasons following commencement of timber operations under a proposed plan.