

CALIFORNIA FOREST PRACTICE RULES

expiration of the MTHP-FHR. Post-treatment photos shall be included with the submission of a final report of stocking and work completion.

1051.6. Review of Modified THP for Project Area Fuel Hazard Reduction.

The Director may require a pre-harvest inspection of a MTHP-FHR when Review Team members identify questions specific to a resource concern pursuant to 14 CCR § 1037.5(g).

1051.7. Evaluation of Regulations.

14 CCR §§ 1051.3-1051.7 shall be subject to review by the Board no later than five years from the effective date. Prior to this review, the Board in consultation with the Director shall convene a panel of technical experts to evaluate the efficacy of 14 CCR §§ 1051.3-1051.7 and report their findings. The Department shall report to the Board at least once annually on the use and effectiveness of 14 CCR §§ 1051.3-1051.7 for as long as these rule sections remain effective.

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, or form RM-66 (1052.5) (2/1/11) for a Sudden Oak Death emergency, herein incorporated by reference, as prescribed by the Director. The notice shall include, but not be limited to, the following:

- (1) Names and addresses of all timberland owner(s), timber owner(s), and timber operator(s) for the area on which timber will be cut or removed.
- (2) A description of the specific conditions that constitute the emergency, its cause, extent and reason for immediate commencement of timber operations.
- (3) Legal description of the area from which timber will be cut or removed.
- (4) A titled USGS (if available) or equivalent topographic map(s) of scale not less than 2" to the mile, or larger scale, showing the area from which timber will be cut or removed, the legal description, roads and Class I, II, III and IV watercourses, and yarding systems if more than one will be used.
- (5) Yarding system to be used.
- (6) The expected dates of commencement and completion 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.
- (8) A declaration by the timber owner, made under penalty of perjury, that any applicable timber yield taxes will be paid pursuant to Section 38115 of the Revenue and Taxation Code.
- (9) Name, address, license number, and signature of the RPF who prepares the notice and submits it to the Director on behalf of the timber owner or operator.
- (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.

(A) For projects filing an emergency notice for fuel hazard reduction under 14 CCR § 1052.4, archaeology requirements shall be conducted by a person possessing current certification pursuant to 14 CCR § 929.4 [949.4, 969.4].

(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

CALIFORNIA FOREST PRACTICE RULES

safety.

(d) Timber operations pursuant to an Emergency Notice may not commence for five working days or 15 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4, from the date of the Director's receipt of the Emergency Notice unless such waiting period is waived by the Director. The Director shall determine whether the emergency notice is complete. If it is found to be complete the Director shall send a copy of a notice of acceptance to the timberland owner. If the Emergency Notice is not complete it shall be returned to the submitter. If the Director does not act within five working days, 15 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4, of receipt of the Emergency Notice, timber operations may commence.

(e) Timber operations shall not continue beyond 1 year from the date the Emergency Notice is accepted by the Director unless a plan is submitted to the Director and found to be in conformance with the rules and regulations of the Board, except for burning operations to treat fuels in accordance with § 1052.4(d)(6) which shall be completed by April 1 of the year following fuel creation.

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.
- (c) Trees that are dead or dying as a result of air or water pollution.
- (d) Cutting or removing trees required for emergency construction or repair of roads.
- (e) Where high, very high or extreme fuel hazard conditions, the combination of combustible fuel quantity, type, condition, configuration and terrain positioning, pose a significant fire threat on private timberlands. Cutting and removal of hazardous fuels, including trees, shrubs and other woody material, is needed to eliminate the vertical and horizontal continuity of understory fuels, and surface fuels, and/or crown fuels, for the purpose of reducing the rate of fire spread, fire duration and intensity, and fuel ignitability.

The following are conditions that constitute a financial emergency as defined in 14 CCR 895.1: Potential financial loss of timber previously inoperable or unmerchantable due to one or more of the following factors: access, location, condition, or timber volume that has unexpectedly become feasible to harvest provided that the harvest opportunity will not be economically feasible for more than 1 year and provided that such operations meet the conditions specified in 14 CCR § 1038(b)(1)-(10) and meet minimum stocking requirements at the completion of timber operations.

(f) An isolated infestation of Sudden Oak Death (caused by *Phytophthora ramorum*), in the locations listed below, where such treatments are intended to eradicate the infestation or significantly slow the spread of the disease. For the purpose of this rule an isolated infestation is:

- (1) an infestation located in a planning watershed where SOD had not previously been noted; or
- (2) an infestation located in a planning watershed that is greater than 1 mile from a known SOD infestation; or
- (3) a new infestation within a planning watershed where all known previous SOD infestations within the ownership have been or will be subject to control or eradication efforts; or
- (4) a location where landowners seek to contain an infestation, even though some landowners have not made proactive efforts within a planning watershed, and the Department's Pest Specialist determines that control efforts may be effective.
- (5) An isolated infestation is limited to locations in the following counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Mateo, San Luis Obispo, Santa Clara, Santa Cruz, Solano, and Sonoma.

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. An emergency is presumed to exist where:

CALIFORNIA FOREST PRACTICE RULES

this section. If and when repairs are necessary, the Director shall request the operator to provide for making the repairs. If the repairs are not made the Department may take corrective action and may order the bond, or equivalent, forfeited in an amount not to exceed actual damage. When a bond or equivalent has been posted, the Department shall provide the county with a copy of the Work Completion Report. The county shall advise the Department in writing within 30 days of its receipt of notification of completion of hauling operations or the Work Completion Report if damage has occurred repairs need to be made. If the county fails to notify the Director within 30 days, the bond of surety shall be released.

965.9 Erosion Control Maintenance [Monterey County]

The plan submitter shall maintain all drainage structures and drainage facilities required by these rules in effective working condition throughout one winter period after completion of timber operations. A work completion report may not be filed until this requirement has been met.

965.10 THP Description [Monterey County]

In addition to the requirements of 14 CCR 1034(g), the THP description shall include the assessor's parcel numbers of all parcels on which timber operations will be conducted.

Article 14 Archaeological and Historical Resource Protection [Article 12. Northern]

929, 949, 969 Statement of Purpose [All Districts]

The purpose of this article is to:

- (a) ensure that the significant archaeological and historical sites within the site survey area are adequately identified and protected,
- (b) to provide direction to RPFs preparing THPs (which includes all forms of THPs including, but not limited to, Modified THPs and Nonindustrial Timber Management Plans (NTMPs), Program Timber Harvesting Plans (PTHPs)), Notice of Emergency Timber Operations (Emergency Notices), and any Exemption Notices pursuant to 14 CCR §§ 1038 and 1104.1,
- (c) provide direction to the timber operator conducting timber operations,
- (d) provide direction to the Department in its review, approval and inspection programs.

929.1, 949.1, 969.1 Plan, and Emergency Notice Preparation [All Districts]

- (a) Preparing a plan.

Prior to submitting a plan, the RPF, or the RPF's supervised designee:

(1) Shall conduct an archaeological records check at the appropriate Information Center. A previously-conducted archaeological records check for the property may be used to satisfy this requirement if it covers the entire area proposed for timber operations and if it meets the definition of "current archaeological records check" in 14 CCR § 895.1.

(2) Shall provide written notification to Native Americans of the preparation of a plan. The primary purpose for this notification is to provide Native Americans an opportunity to disclose the existence of any Native American archaeological or cultural sites that are potentially within or adjacent to the site survey area, and the opportunity to comment on the plan. The RPF shall allow a minimum of 10 days for response to this notice before submitting the plan to the Director. The remainder of the 10-day waiting period is waived when all Native Americans required to be informed respond in less than 10 days. This notice shall contain the following attachments or items of information:

(A) A request for information concerning the potential existence of any Native American archaeological or cultural sites within the plan boundaries.

(B) Information concerning the location of the plan including:

- 1. A general location map that, at a minimum, shows the travel route from the nearest community or well-known landmark to the plan area.
- 2. A copied segment of the titled USGS (if available) or equivalent map(s) that displays the approximate boundary of the plan area, and includes a map legend and a scale.
- 3. A description of the plan location including the county, section, township, range, base and meridian, and the approximate direction and distance from the nearest community or well-known landmark.

CALIFORNIA FOREST PRACTICE RULES

(C) A statement that all replies, comments, questions, or other information submitted by Native Americans as a result of this notice be directed to the RPF. The name, address, and phone number of the RPF shall be provided.

(D) Information concerning the available time for response. Indicate that the RPF is requesting a response within ten days from the date of the notice so the information can be incorporated into the plan when initially submitted to the Director. Provide the estimated date the plan will be submitted to Director. Provide the following statement: "The earliest possible date the Director may approve the plan is 16 calendar days after it is submitted to Director, although typically, the plan is reviewed for at least 45 calendar days following plan submittal before the Director approves the plan."

(E) A statement that the Native American groups may participate in the plan review process by submitting written comments to the Director before close of public comment period.

(F) A statement that locations of sites disclosed will be kept confidential.

(G) A statement that a Confidential Archaeological Addendum (CAA) will be prepared for the plan and a copy of pertinent information contained within the CAA may, at the discretion of the Director, be obtained from the Director.

(3) Shall provide a professional archaeologist or a person with archaeological training (in accordance with 14 CCR §§ 929.4, 949.4, and 969.4) to conduct a field survey for archaeological and historical sites within the site survey area. Previous archaeological surveys within the site survey area may also be used to partially or entirely satisfy this requirement.

(4) Shall ensure that research is conducted prior to the field survey, including review of appropriate literature and contacting knowledgeable individual, concerning potential archaeological or historical sites occurring on the property.

(b) Provide Notification to Native Americans if a Native American Archaeological or Cultural Site is located within the plan.

On a plan that contains a Native American archaeological or cultural site as defined in 14 CCR § 895.1 the RPF or the RPF's supervised designee shall:

(1) provide a written notice to Native Americans informing them of the presence of Native American cultural resources within the site survey area. This notification shall include:

(A) The RPF's name, address, and telephone number.

(B) The name, number, or other designator of the plan.

(C) A list of all known Native American archaeological or cultural sites located within the site survey area, including a name, number or other designator and brief description of each site.

(D) A brief discussion of how each site shall be protected or avoided.

(E) The address and phone number of the appropriate CAL FIRE Review Team Office to contact as listed under 14 CCR § 1032, as well as a statement that written comments may be submitted to the Director for consideration prior to the close of public comment.

(F) The estimated earliest date the Director may approve the plan.

(2) submit a copy of all letters sent pursuant to 14 CCR § 929.1 [949.1, 969.1] (b)(1) to the Director. The Director shall allow a minimum of 15 days from the date of the notification letter for receipt of responses to notices sent pursuant to 14 CCR § 929.1 [949.1, 969.1] (b)(1) prior to the close of public comment.

(c) Submitting a Confidential Archaeological Addendum for a plan.

The RPF shall include the following information in a Confidential Archaeological Addendum with the proposed plan:

(1) Administrative Information which is not confidential and may be released to the public. This includes:

(A) The name, affiliation, address, and phone number of the archaeological surveyor.

(B) The name, affiliation, address, and phone number of the RPF, if different than the archaeological surveyor.

(C) The plan name ascribed by the RPF, plan number (if known), type, and approximate acreage.

(D) The county, legal description, and name of USGS 7.5' Quad(s) within which the project is located.

(E) The date the CAA was completed.

CALIFORNIA FOREST PRACTICE RULES

(F) The name of the author of the CAA.

(G) The signature of the RPF or archaeological surveyor.

(2) Archaeological Records Check Information. 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.

(3) Results of notification to Native Americans pursuant to 14 CCR § 929.1 [949.1, 969.1](a)(2)(B). This shall include:

(A) An example of a notification letter and project maps submitted to Native American contacts.

(B) Copies of any written responses received from Native American contacts.

(C) A list of the individuals or groups that were provided written notification and the date of the Native American Contact List being used.

(D) Date the notification was sent.

(E) Results of the information request, specifically addressing the results of information received from the NAHC, if those results have been received.

(4) Results of notification to Native Americans of the existence of a Native American archaeological or cultural site on the plan, if required, pursuant to 14 CCR § 929.1 [949.1, 969.1](b).

(5) A list of the research done prior to field survey. This list shall include literature reviewed and persons contacted in addition to the required archaeological records check with Information Center and Native Americans, and a summary of the results of this research.

(6) Information on the current or previous archaeological surveyor(s), which is not confidential. This shall include:

(A) the name of the current archaeological surveyors and an indication of whether or not the person either meets the specifications of a professional archaeologist as defined in 14 CCR § 895.1 or, meets the requirements specified in 14 CCR § 929.4 [949.4, 969.4].

(B) the name of any previous archaeological surveyors, if known.

(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.

(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.

(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.

(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.

(11) Description of any specific enforceable protection measures to be implemented both within the site boundaries and within 100 feet of the site boundaries.

(12) Information concerning the proposed on-site meeting between the RPF or supervised designee familiar with on-site conditions and the LTO to discuss protection of archaeological and historical resources, if required, pursuant to 14 CCR § 929.2 [949.2, 969.2](b).

(13) Information concerning site recording requirements pursuant to 14 CCR § 929.1 [949.1, 969.1](d) and (g).

CALIFORNIA FOREST PRACTICE RULES

(14) Other applicable information, if any, concerning the archaeological survey for this project.

(15) List of attachments to the CAA.

(d) Site Records.

Upon submission of a plan, the RPF or the RPF's supervised designee shall submit completed site records for each site proposed to be a significant archaeological or historical site 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.

(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.

(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).

929.2, 949.2, 969.2 Protection Measures for Plans and Emergency Notices 3 Acres and Larger [All Districts]

(a) (1) The RPF shall describe in the separate Confidential Archaeological Addendum or Letter, measures

CALIFORNIA FOREST PRACTICE RULES

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.

929.3, 949.3, 969.3 Post Review Site Discovery [All Districts]

If a person discovers a potentially significant archaeological or historical site after a plan, Emergency Notice, or Exemption is accepted by the Director, the following procedures apply:

(a) The person who made the discovery shall immediately notify the Director, LTO, RPF, or timberland owner of record.

(b) The person first notified in (a) shall immediately notify the remaining parties in (a).

(c) No timber operations shall occur within 100 feet of the identified boundaries of the new site until the plan submitter proposes, and the Director agrees to, protection measures pursuant to 14 CCR § 929.2 (949.2, 969.2).

(d) A minor deviation shall be filed to the plan. The minimum information provided shall include:

(1) A statement that the information is confidential.

(2) The mapped location of the site.

(3) A description of the site.

(4) Protection measures, and

(5) Site records, if site records are required pursuant to 14 CCR §§ 929.1(g)(2)(b) and 929.5 [949.5, 969.5].

(e) Upon receipt, the Director shall immediately provide the proposed minor deviation or portions of the minor deviation, to Native Americans when Native American archaeological or cultural sites are involved.

929.4, 949.4, 969.4 Archaeological Training Requirements [All Districts]

To meet the requirement of 14 CCR § 929.1 [949.1, 969.1], archaeological surveys of a plan, or Emergency