

**FOREST SLOPES MANAGEMENT**  
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January 30, 2014

Forest Practice Committee  
State Board of Forestry & Fire Protection  
PO Box 944246  
Sacramento, CA 94244-2460

RE: Draft Language to modify Native American Notification in Emergency Notices

Dear Committee:

*I was there at your January 28, 2014 Committee meeting and listened to the discussion on this particular topic, and have read the proposed changes to current rules. It seems to me that we are trying to make a potential solution to the problem much more complicated (regulation language wise), then it needs to be.*

The problem that appears to be driving the issue is that there was a large wildland fire that was salvage logged, but that during the operations, information came to light from Native Americans that there was some undocumented archaeological sites in the area that they knew about that got disturbed by the logging because the Native Americans were not notified in a timely manner about the potential logging.

By far, the most acreage that is covered by Emergency Notices are salvage operations that occur due to large wildland fires and the need to rapidly harvest dead/dying trees before they lose economic value. Because of the vast acreages potentially involved, there is a chance for unknown archaeological sites to exist in operating areas. That is why archaeological surveys and Information Center Records Checks are required. Native American notification only occurred right when Emergency Notices were submitted to the California Department of Forestry and Fire Protection, for their acceptance.

I would guess that the most properties that are eligible for Emergency Notices are small parcels impacted by fire, insects, disease, or flooding. Acreages probably range from 3-40 acres. The likelihood of there being unknown archaeological sites on these properties is relatively low. To make sure that any sites are protected though, surveys and Information Center checks are also required on these properties. Native American notices are also given.

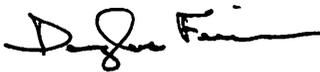
As currently drafted, the language to address this property would potentially add another 12-16 days that a landowner could not act on address their problem of using salvage logging to remove problem trees. This is enough time to make a potentially economic operation uneconomical or available RPFs or timber operators no longer available, and therefore harvesting would not be done. Do we really want some properties having potential forest health, high fire danger potential, or even public safety risks to be created? I don't think so.

The attached alternative to your draft keeps it simple while allowing a little more up front notification to Native Americans of the harvest activity, and also informs them of the need for rapid response if they know about any sites in the area. It takes advantage of the existing Confidential Archaeological Letter that must be submitted along with all Emergency Notices over 3 acres in size to disclose that the RPF has notified Native Americans about the operations and the need for their response. Existing language in 14 CCR §929.3[949.3, 969.3] governs how we address archaeological sites found after harvest documents are accepted or approved, so additional language is not needed to protect those sites when discovered afterwards.

Eliminating the requirement to send Native Americans a copy of the Emergency Notice, no longer needed, because a letter now acts as the notification to them of the potential timber harvest.

Do we really need additional regulatory language that mainly just repeats what is already found in other places in the rulebook? Keep it simple and to the point.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas Ferrier". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Douglas Ferrier

**PROPOSED CHANGES TO ARCHAEOLOGICAL RULE**  
**January 30, 2014**

1. Modify 929.1(e)(2)(B) to read:

(B) Shall submit a Confidential Archaeological Letter that includes the information required by 14 CCR § 929.1 [949.1, 969.1] (c)(2), ~~(3)~~, (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].

2. Eliminate current language in 929.1(e)(2)(C) and replace with

~~(C) Send a copy of the Emergency Notice to Native Americans.~~

**(C) At least 5 days prior to submission of the Emergency Notice to the Director, a letter and associated Potential Timber Operating area and Vicinity maps shall be sent to Native Americans. Letter shall stress the need for immediate confidential response back to the RPF of known sites in area, to maximize protection of any site. Letter shall also state the earliest estimated date Emergency timber operations might begin. Any confidential information received after timber operations have commenced will still be used to protect sites, but maximum potential protection may be lowered if ground disturbance has already occurred in area.**

3. Modify current language in 1052(a)(10) as follows:

(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), ~~(3)~~, (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 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.~~