

1 **Board of Forestry and Fire Protection**

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3 **“RPF AND LTO RESPONSIBILITIES AMENDMENTS, 2017”**

4 **Title 14 of the California Code of Regulations (14 CCR),**

5 **Division 1.5, Chapter 4,**

6 **Subchapter 1, Article 1**

7 **Subchapter 7, Article 2**

8
9 **December 7, 2016**

10 **Amend:**

11 **§ 895.1. Definitions.**

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13 **Preparatory Work** means those activities required to be performed by a Registered
14 **Professional Forester (RPF), or their designee, in a Logging Area prior to operations, or**
15 **upon assuming responsibility of a Plan, which include flagging, marking or otherwise**
16 **identifying silvicultural prescriptions, watercourses, archaeological resources, special**
17 **treatment areas, location of proposed roads or landings, or other areas requiring**
18 **operational restrictions as identified in an approved Plan or approved amendments to a**
19 **Plan.**

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23 Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4562, 4562.5, 4562.7
24 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4525.5, 4525.7,
25 4526, 4528, 4551, 4551.5, 4561, 4562, 4562.5, 4562.7, 4583.2, 4584, 4591.1, 21001(f),

1 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K
2 (printed following Section 15387 of Title 14 Cal. Code of Regulations), *Laupheimer v.*
3 *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82 and *Joy Road Area Forest and*
4 *Watershed Association, v. California Department of Forestry & Fire Protection*, Sonoma
5 County Superior Court No. SCV 229850.

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7 **§ 1035.1. Registered Professional Forester Responsibility.**

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9 (e) A RPF retained by the plan submitter to provide professional advice throughout
10 timber operations, or their designee, shall, prior to the commencement of operations or
11 upon taking responsibility of a Plan, perform an on-site inspection of the Logging Area
12 to ensure the preparatory work is accurate and in conformance with the approved Plan.

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15 Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference:
16 Sections 4583.2 and 4583.5, Public Resources Code.

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18 **§ 1035.3. Licensed Timber Operator Responsibility.**

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20 (d) Comply with all provisions of the Act, Board rules and regulations for timber
21 operations, the applicable approved plan and any approved amendments to the
22 plan, except that a LTO shall not be held responsible for violations that result from
23 inaccurate or inadequate Preparatory Work completed by the responsible RPF, or their
24 designee.

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2 Note: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code.

3 Reference: Sections 4528.5 and 4571, Public Resources Code.

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5 **Adopt:**

6 **§ 1035.5. Preliminary Appeal of Pending Notice of Violation Determination.**

7 Before a Notice of Violation is issued a CAL FIRE Inspector, the inspector shall contact
8 the intended recipient (“Recipient”) and notify them of the intent to issue the Notice of
9 Violation, describing the violations warranting the Notice of Violation. If the Recipient
10 disagrees with the factual or legal basis for the Notice of Violation, the Inspector shall
11 notify the Recipient that they have the right to proceed as follows:

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- 13 a. Within 5 working days of the receipt of written notification from the Inspector,
14 the Recipient can request a meeting with the issuing officer and the Unit
15 Forester of Unit Chief to discuss the Recipient’s reasons for disagreement
16 with the issuance of the Notice of Violation; and
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- 18 b. Within 5 working days of the meeting referred to in “a” above, submit a written
19 comment to the Unit Forester and, the Unit Chief, or the Director, identifying
20 1) the THP at issue, 2) the issuing officer, 3) the alleged Violation, and 4)
21 setting forth the Recipient’s factual and/or legal basis for disagreeing with the
22 issuance of the Notice of Violation. The time frames stated above may be
23 modified by any party if the Inspector or Unit Forester is involved in an
24 emergency response situation or if weather makes a site visit within the time

1 frame impossible and a site visit is required to verify ground conditions related
2 to the potential violation on the plan.

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4 Following the meeting with the inspector and the Unit Forester or Unit Chief, or the
5 receipt of a written statement from the Recipient, or both, the Unit Forester shall within
6 ten working days issue a written decision,

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- 8 a. Ratifying the decision for issuing the Notice of Violation; describing the
9 reasons supporting the Unit Forester's ratification; or
 - 10 b. Modify the proposed Notice of Violation, setting forth the factual and/or legal
11 reasons for modifying the proposed Notice of Violation; or
 - 12 c. Notifying the Recipient that a Notice of Violation will not be issued, or
 - 13 d. Refer the matter to the Director for further consideration.
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15 The ten working day period may be extended by either party if further investigation is
16 needed.

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18 The Unit Forester, Unit Chief Director shall consider the extent of harm or significance
19 of environmental damage at issue, the history of the Recipient's conduct of operations,
20 the ease of mitigating any damage or potential damage to the environment, and other
21 equitable reasons before issuing a decision.

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24 Note: Authority cited: Sections 4551, 4551.5, 4552 and 4553, Public Resources Code.

25 Reference: Section, Public Resources Code.

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