

1 **Board of Forestry and Fire Protection**

2
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 7, Article 2**

7
8 **April 12, 2017**

9 **Amend:**

10 **§ 1035.1. Registered Professional Forester Responsibility.**

11 (a) Upon submission of a THP, the RPF who prepares and signs a pPlan is responsible
12 for the accuracy and completeness of its contents.

13 (1) The RPF preparing the pPlan shall state in the THP the work which will be
14 performed by the RPF plan preparer (beyond preparation of the THP and attending the
15 pre-harvest inspection if requested by the Director), and any additional work requiring
16 an RPF which the plan preparer does not intend to perform. This may include, but is not
17 limited to, field work in identifying ~~watercourse and lake protection zones~~ WLPZ(s) or
18 ~~s~~Special ~~t~~Treatment ~~a~~Areas, marking trees, or other activities. The RPF is only
19 responsible for the activities set forth in the pPlan when employed for that purpose, or
20 required by Board rules.~~the rules of the Board~~. The RPF shall state whether or not ~~he or~~
21 ~~she has~~ they have been retained to provide professional advice throughout the ~~t~~Timber
22 ~~e~~Operations.

23 (2) The RPF preparing the pPlan shall in writing, inform the plan submitter(s) of their
24 responsibility pursuant to ~~Section~~ § 1035 of this Article, and the timberland owner(s) of
25 their responsibility for compliance with the requirements of the Act and where

1 applicable, Board rules regarding site preparation, stocking, and maintenance of roads,
2 landings, and erosion control facilities.

3 (b) Upon entering into an agreement to accept responsibility for any part of the
4 preparation or implementation of a pPlan or any work beyond the preparation of a
5 pPlan, including providing professional advice; ~~all~~ the responsible RPF(s) shall disclose
6 to the real party of interest for whom the RPF(s) is providing professional forestry
7 services of any known current or potential conflict of interest the RPF(s) have with
8 regard to the timber or land that is subject to operations under the pPlan. All responsible
9 RPFs shall disclose to the timberland owner and plan submitter whether they are the
10 real party of interest for whom the RPF is providing professional forestry services.

11 (c) Disclosure of newly discovered conflicts of interest an RPF has with regard to the
12 plan submitter, timberland owner, timber owner, the LTO and timber purchaser,
13 pertaining to the timber or land that is subject to operations under the pPlan, shall be
14 required as long as an RPF has responsibilities relative to the a pPlan. The disclosure
15 shall include identification of the real party of interest for whom the RPF is providing
16 professional forestry services.

17 (d) All disclosures made between an RPF and an affected party pursuant to this section
18 may be kept confidential.

19 (e) An RPF retained by the plan submitter to provide professional advice throughout the
20 Timber Operations shall be present, or ensure that the RPF's Supervised Designee
21 is present, on the Logging Area at a sufficient frequency to know the progress of
22 operations and advise the LTO and timberland owner, but not less than once during the
23 life of the pPlan.

24 (f) An RPF retained by the plan submitter to provide professional advice throughout
25 Timber Operations, or the RPF's Supervised Designee, shall inspect the Logging Area

1 prior to the commencement of operations each year to verify that operational flagging
2 and timber marking required of an RPF, under Board rules, is adequate and in
3 conformance with Board rules and the approved Plan.

4 (fg) An RPF retained by the plan submitter to provide professional advice throughout the
5 ~~€~~Timber eOperations shall inform the LTO during Timber eOperations of any mitigation
6 measures incorporated into the pPlan that are intended to address Timber eOperations
7 that have a high likelihood of resulting in immediate, significant and long-term harm to
8 the natural resources of the Sstate if such mitigation measures are not strictly applied to
9 minimize such impacts.

10 (gh) The RPF shall without delay notify in writing the LTO, the plan submitter, and the
11 Department of a decision to withdraw professional services from the pPlan.

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

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16 **§ 1035.2 Interaction Between RPF and LTO.**

17 (a) After the ~~start approval~~ of the pPlan, ~~preparation process~~ but before commencement
18 of Timber eOperations, the responsible RPF or Ssupervised Designee ~~familiar with on-~~
19 ~~site conditions,~~ shall meet with either the LTO, ~~or supervised designee who will be on~~
20 ~~the ground and directly responsible for the harvesting~~ Timber eOperations. The
21 purpose of the meeting shall be for the RPF to familiarize the LTO with the Plan, the
22 Plan area, and specific applicable requirements of the Plan including, but not limited to,
23 the conditions listed below. The meeting shall be on-site if requested by either the RPF
24 or LTO, ~~or if any of the following conditions apply to the approved Plan:~~

25 (1) Watercourse and Lake Protection Zone(s);

1 (2) Special Treatment Area(s) as defined in 14 CCR § 895.1;

2 (3) Buffer zone(s) for Sensitive Species or Listed Species;

3 (4) Archaeological resources within the Site Survey Area;

4 (5) Timber Operations on Unstable Areas;

5 (6) New Logging Road construction on slopes greater than 50%;

6 (7) Class I and II Tractor Road watercourse crossing(s);

7 (8) Class I and II Logging Road watercourse crossing construction or re-
8 construction.

9 An exception to the requirement for an on-site meeting may be approved by the Director
10 when explained and justified by the RPF.

11 ~~An on-site meeting is required between the RPF or supervised designee familiar with~~
12 ~~on-site conditions and LTO to discuss protection of any archaeological or historical sites~~
13 ~~requiring protection if any such sites exist within the site survey area pursuant to~~
14 ~~Section 929.2[949.2, 969.2](b). If any amendment is incorporated to the plan by an RPF~~
15 ~~after the first meeting, that RPF or supervised designee familiar with on-site conditions~~
16 ~~shall comply with the intent of this section by explaining relevant changes to the LTO; if~~
17 ~~requested by either that RPF or LTO, another on-site meeting shall take place. The~~
18 ~~intent of any such meeting is to assure that the LTO:~~

19 ~~(a) Is advised of any sensitive on-site conditions requiring special care during~~
20 ~~operations.~~

21 ~~(b) Is advised regarding the intent and applicable provisions of the approved plan~~
22 ~~including amendments.~~

23 (b) The RPF shall notify the LTO of any amendment to the Plan, subsequent to Plan
24 approval, affecting Timber Operations. An on-site meeting to review amendments
25 affecting Timber Operations shall occur if requested by either the RPF or LTO.

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2 Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference:
3 Sections 4581 and 4582, Public Resources Code.
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5 **§ 1035.3. Licensed Timber Operator Responsibility.**

6 Each affected ~~licensed Timber Operator~~ LTO shall:

7 (a) Sign the pPlan and major amendments to the pPlan, or sign and file with the Director
8 a facsimile of such pPlan or amendments, agreeing to abide by the terms and
9 specifications of the pPlan. This shall be accomplished prior to implementation of the
10 following; which the affected LTO has responsibility for implementing:

11 (1) those operations listed under the pPlan and

12 (2) those operations listed under any amendments proposing substantial
13 deviations ~~from the~~ to the approved pPlan.

14 (b) Inform the responsible RPF or plan submitter, ~~whether~~ either in writing or orally, of
15 any site conditions which, in the LTO's opinion, prevent implementation of the approved
16 pPlan including amendments.

17 (c) Keep a copy of the applicable approved pPlan and amendments available for
18 reference at the site of active ~~t~~Timber ~~e~~Operations. The LTO is not required to possess
19 any confidential addenda to the pPlan such as the Confidential Archaeological
20 Addendum, nor is the LTO required to keep a copy of such confidential pPlan addenda
21 at the site of active ~~t~~Timber ~~e~~Operations.

22 (d) Comply with all provisions of the Act, Board rules ~~and regulations~~, the applicable
23 approved pPlan and any approved amendments to the pPlan.

24 (e) An LTO shall not be held responsible for Forest Practice Rule violations that result
25 from work required of an RPF, under Board rules, that is determined to be inaccurate or

1 ~~inadequate. In the event that the LTO executing the plan was not available to attend the~~
2 ~~on-site meeting to discuss archaeological site protection with the RPF or supervised~~
3 ~~designee familiar with on-site conditions pursuant to 14 CCR§ 929.2(b) [949.2, 969.2],~~
4 ~~subsection (b), it shall be the responsibility of the LTO executing the plan to inquire with~~
5 ~~the plan submitter, timberland owner, or their authorized agent, RPF who wrote the~~
6 ~~plan, or the supervised designee familiar with on-site conditions, in order to determine if~~
7 ~~any mitigation measures or specific operating instructions are contained in the~~
8 ~~Confidential Archaeological Addendum or any other confidential addendum to the plan.~~

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10 (h) Upon receipt of written notice of an RPF's decision to withdraw professional services
11 from the pPlan, the LTO or on-site contact employee shall cease tTimber eOperations,
12 except for emergencies and operations needed to protect water quality, until the LTO
13 has received written notice from the plan submitter that another RPF has visited the
14 pPlan site and accepts responsibility for providing advice regarding the pPlan as the
15 RPF of record.

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

18 Reference: Sections 4524, 4526.5, 4527, 4528.5, and 4570, 4571, and 4581 Public
19 Resources Code.