

**Board of Forestry and Fire Protection**

**15 - DAY NOTICE OF RULEMAKING**

**[Notice Date – September 11, 2014]**

**“SLASH TREATMENT AMENDMENTS, 2014”**

**Title 14 of the California Code of Regulations (14 CCR),  
Division 1.5, Chapter 4, Subchapters 4, 5, & 6, Article 7**

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION AND  
PUBLIC HEARING DATE**

**PUBLIC HEARING DATE**

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the State Board of Forestry and Fire Protection (Board) is providing notice of modifications made to portions of the “Slash Treatment Amendments, 2014” rule proposal adopted by the Board following a regulatory hearing conducted on August 27, 2014. These modifications are substantially related to the 45-day Noticed rule text. **The Board will conduct a public hearing to consider adoption of the proposed rule text modifications at their regularly scheduled meeting on Wednesday, October 1<sup>st</sup>, 2014. The meeting will begin at 8:00am in the first floor auditorium of the Resources Building located at 1416 9<sup>th</sup> Street, Sacramento, California.**

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION**

The Board is providing notice of modifications to the 45-day Notice rule text published May 9, 2014 and initially considered for adoption on August 27, 2014. The proposed modifications are discussed below.

**Section 917.2 [937.2, 957.2].** The symbol “§” was inserted before cited existing regulation (14 CCR § 895.1) for consistency with formatting standards of the California Forest Practice Rules.

**Section 917.2 [937.2, 957.2](a)(1).** At request of the Department, the regulatory proposal has been revised to require treatment of slash piles from May 1 to by April 1, or within 30 days following climatic access after April 1 of the year following its creation. This proposed regulatory standard would apply where slash piles that require treatment for purposes of hazard reduction are created prior to September 1 of a given year. Climatic access is a standard that is well understood by the Department and the regulated public and indicates that piles are accessible by the equipment necessary to treat piles without hindrance by accumulations of snow or saturated seasonal roads. Flexibility to this regulatory standard is provided by the proposed language in 14 CCR 917.2(a)(3), where an RPF can propose an alternative treatment schedule if justified and ultimately approved by the Director.

**Section 917.2 [937.2, 957.2](a)(2).** At request of the Department, the regulatory proposal has been revised to require treatment of slash piles from May 1 to by April 1, or within 30 days following climatic access after April 1 of the second year follow its creation. This proposed regulatory standard would apply where slash piles that require treatment for purposes of hazard reduction are created on or after September 1 of a given year. Climatic access is a standard that is well understood by the Department and the regulated public and indicates that piles are accessible by the equipment necessary to treat piles without hindrance by accumulations of snow or saturated seasonal roads. Flexibility to this regulatory standard is provided by the proposed language in 14 CCR 917.2(a)(3), where an RPF can propose an alternative treatment schedule if justified and ultimately approved by the Director.

## **PUBLIC COMMENTS**

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

## **WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Thursday, September 26, 2014.** The Board will consider only written comments received at the Office of the Board of Forestry and Fire Protection by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit

written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Board of Forestry and Fire Protection  
Attn: Matt Dias  
Assistant Executive Officer  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Attn: Matt Dias  
Room 1506-16  
1416 9<sup>th</sup> Street  
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[publiccomments@bof.ca.gov](mailto:publiccomments@bof.ca.gov)

### **UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Following a 45-day Noticed rulemaking hearing at its regularly scheduled meeting of August 27, 2014, the Board adopted the regulation entitled, "Slash Treatment Amendments, 2014." The regulation was adopted in its noticed form with the inclusion of the changes described above. These changes were deemed to be substantially related to the 45-day Noticed rule text. The Board adopted a motion to offer a 15-day Notice pursuant to Government Code Section 11346.8(c) to provide all stakeholders the opportunity to comment on these changes to the proposed regulation.

Current Board regulations, 14 CCR §§§ 917, 937 and 957 address the treatment of logging residue (known as slash), including piles, to eliminate or reduce hazards associated with wildfire and pests. These existing regulations provide for a prescriptive standard in which piles created in a given year must be treated by April 1st of the following year. Treatment of such pile can include burning, chipping, lopping and scattering. Burning of piles is far and away the most utilized option that landowners employ given that the opportunity to chip woody

material for the purposes of biomass production is largely non-existent in the State, particularly in remote areas where the timber harvesting generally occurs.

Piles that are generated from late season operations from October through December of a given year are creating piles of material that are still “green” by the regulatory mandated treatment date of April 1 of the following year. These piles would only have 4-6 months to cure during the period of time in which the State’s mediterranean climate produces the greatest proportion of precipitation. By April 1st, these piles still often consist of a moisture content that is not conducive to burning, or if burned, would create an abundance of smoke that is often not compliant with regulatory standards of the local air resources districts.

When winters are particularly dry, as they have been over the last several years, treating piles to meet prescriptive regulatory standards becomes a question of liability for landowners. The required ignition of piles poses the risk of starting wildfires within surrounding forested environments during drought or near drought conditions, even in the early months of February or March. This occurs when fuel moisture content of adjacent vegetative cover is low and embers are carried from burning slash piles by wind into fuel beds that ignite and carry fire.

Conversely, during extremely wet years, slash piles that are located in mid to high elevations are not accessible due to extreme snowpacks or because seasonal (dirt) access roads have not sufficiently dried out to allow access at lower elevations. The use of snow blocked roads is not possible, while exceedingly saturated road surfaces result significantly altered or destroyed surface drainage, which puts water resources at risk.

## **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Matt Dias  
Assistant Executive Officer  
State Board of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460  
(916) 653-8031

The designated backup person in the event Mr. Dias is not available is Mr. George Gentry, Executive Officer of the Board of Forestry and Fire Protection. Mr. Gentry may be contacted at the above address or by phone at (916) 653-8007.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an *Initial Statement of Reasons* “Slash Treatments Amendments, 2014” rulemaking proposal. This document provides an explanation of the purpose, background, and justification for the Board’s adoption of the proposal. The statements are available from the contact person on request. If the rule text modifications discussed in this Notice are adopted by the Board as proposed on October 1, 2014 the *Final Statement of Reasons* will be prepared to reflect the comments and responses received during the written comment period and public hearing. The Final Statement of Reasons, when prepared, will be available from the contact person(s) listed named in this notice.

A copy of the express terms of the original proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address:

California Department of Forestry and Fire Protection  
Resources Building  
Room 1517  
1416 9<sup>th</sup> St.  
Sacramento, CA 95814  
Attention: Matt Dias  
Tel: (916) 653-8031

All of the above referenced information is also available on the Board website at:

[http://www.bof.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://www.bof.fire.ca.gov/regulations/proposed_rule_packages/)

## **15-DAY NOTICE RULE TEXT MODIFICATIONS**

Proposed modifications to the rule text previously adopted by the Board following a public hearing on August 27, 2014 are identified in the 15-Day Notice of Rulemaking rule text as follows:

Existing CCR Text ----- No underline or strikethrough

45-day Notice rule text ----- single underline

Deletions of rule text proposed in the 15-Day Notice ----- ~~double strikethrough~~

Additions to rule text proposed in the 15-Day Notice ----- double underline

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board again makes modifications which are sufficiently related to the originally proposed text, it will again make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised.

Notice of the comment period and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for no less than 15 days from the date on which they are made publicly available.



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Matt Dias, RPF No. 2773  
Assistant Executive Officer  
State Board of Forestry and Fire Protection

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**Board of Forestry and Fire Protection**  
**“SLASH TREATMENT AMENDMENTS, 2014”**  
**Title 14 of the California Code of Regulations (14 CCR),**  
**Division 1.5, Chapter 4, Subchapters 4, 5, & 6, Article 7**

**AMEND:**

- § 957 Hazard Reduction**
- § 917.2, 937.2, 957.2 Treatment of Slash to Reduce Fire Hazard**

**§ 957 Hazard Reduction**

~~(a)~~ This article shall provide standards for the treatment of snags and logging slash in order to reduce fire and pest safety hazards in the logging area, to protect such area from potential insect and disease attack, and to prepare the area for natural or artificial reforestation while retaining wildlife habitat.

**§ 917.2, 937.2, 957.2 Treatment of Slash to Reduce Fire Hazard**

Except in the *[High-Use Subdistrict of the Southern Forest District,]* Southern Subdistrict of the Coast Forest District and Coastal Commission Special Treatment Areas of the Coast Forest District, the following standards shall apply to the treatment of slash created by timber operations within the plan area and on roads adjacent to the plan area, but excluding appurtenant roads. Lopping for fire hazard reduction is defined in 14 CCR § 895.1.

**(a)** Slash to be treated by piling and burning shall be treated ~~not later than April 1 of the year following its creation, or within 30 days following climatic access, or as justified~~

1 in the plan as follows.:

2 (1) Piles created prior to September 1 shall be treated not later than April ~~May~~ 1  
3 of the year following its creation, or within 30 days following climatic access after April 1  
4 of the year following its creation.

5 (2) Piles created on or after September 1 shall be treated not later than  
6 April ~~May~~ 1 of the second year following its creation, or within 30 days following climatic  
7 access after April 1 of the second year following its creation.

8 (3) Alternatives to (1) and/or (2) shall be justified in the plan by the RPF and may  
9 be approved by the Director.

10 **(b)** Within 100 feet of the edge\*\*\*\*\*

**AFFIDAVIT OF MAILING**  
**15-Day Availability of Revised Text**  
**Title 1 CCR Sec. 44**  
**Government Code Section 11347.1**

**“Slash Treatment Amendments, 2014”**

I, Matt Dias, Assistant Executive Officer for the Board of Forestry and Fire Protection (Board), swear under penalty of perjury that the Board complied with the statutes and regulation specified above regarding the mailing of notice of the revised text proposed for Board adoption. The notice specified that the entire rulemaking file, including all information considered as a basis for the proposed regulations, was available at the office of the Board, and listed the office address. The notice and text were mailed and/or emailed to all parties who expressed an interest in the proposed regulation and/or submitted comments during the 45-day Notice period, state and federal agencies, and the Board’s “Public Reports” mailing list on or before September 11, 2014 as specified in 1 CCR Sec. 44(a) and Gov. Code Sec. 11347.1(b). The comment period for this notice began on September 11, 2014 and closed on September 26, 2014 at 5:00 pm.

Dated: September 11, 2014



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Matt Dias  
Assistant Executive Officer