

Guidance for Tree Service Contractors Conducting Timber Operations

Pursuant to the Governor's September 1, 2017 amendment to the October 30, 2015 Proclamation of a State of Emergency, designated Executive Order B-42-17 (EO B-42-17) (available [here](#)) tree service contractors (those with license classification C-61/D-49) may now conduct timber operations without first obtaining a timber operator's license, provided that they maintain insurance at the levels required of a Licensed Timber Operator (LTO) and that they comply with all operational provisions of the Forest Practice Act and Rules. Timber operations are the cutting and/or removal of timber or other solid wood forest products from timberland **either** with an intent to commercialize (sell, barter, exchange, or trade) the wood **or** to convert the land to a use other than growing timber. This guidance is intended to assist tree service contractors conducting timber operations in complying with the operational provisions of the Z'berg-Nejedly Forest Practice Act (the Forest Practice Act) and its implementing regulations (the Forest Practice Rules). The laws and rules are extensive, covering subjects including but not limited to what is described in this document. This document is not a complete list of all requirements of laws and rules that must be complied with.

EO B-42-17 contains several limitations that are important to note. The suspension of licensing requirements applies only to the removal of dead or dying trees from high hazard zones. The definition of dying trees is found in section 895.1 of the Forest Practice Rules (available [here](#)), and dead trees are a subset of dying trees. The locations of high hazard zones may be found on the Tree Mortality Task Force website (available [here](#)). Furthermore, any tree service contractor conducting commercial timber operations subject to the Forest Practice Act and Rules must maintain throughout the course of timber operations a commercial general liability insurance policy in an amount no less than \$1 million. The applicable requirements for insurance are found in section 4572 of the Public Resources Code (available [here](#)) and section 1024.5 of the Forest Practice Rules (available [here](#)). A sample proof of insurance that meets the requirements of the Forest Practice Act and Rules is attached to the license application on CAL FIRE's website (available [here](#)). Tree Service contractors operating as LTOs are expected to keep proof of insurance on site for inspection throughout the duration of timber operations.

While the Governor's Proclamation has relieved tree service contractors of the need to be licensed pursuant to the Forest Practice Act and Rules, all operational provisions of the Act and Rules continue to apply to the conduct of timber operations. The only effect of EO B-42-17 is to relieve tree service contractors from the requirement to be licensed pursuant to section 4571 of the Public Resources Code. Perhaps most importantly, the requirement that all timber operations be conducted pursuant to a valid harvest document remains in effect, though the Governor's Executive Order provides some relief from the prescribed waiting period after filing certain harvest documents. A harvest document is a document that has been approved or accepted by CAL FIRE and which entitles the submitter to conduct timber operations. Any harvest document that lists a tree service contractor as the LTO must be accompanied by proof of insurance as required by the Forest Practice Act and Rules.

In the context of the tree mortality crisis, the more frequently used harvest documents are **Exemptions** and **Emergency Notices**. Each Exemption has general requirements attached to the Exemption, and both Exemptions and Emergency Notices are subject to all *operational* provisions of the Forest Practice Act and Rules. It is imperative that all LTOs and tree service contractors know these operational provisions prior to conducting timber operations in order to avoid enforcement actions by CAL FIRE for violations of the Forest Practice Act and Rules. Violations of the Forest Practice Act and Rules may subject the violator to misdemeanor criminal prosecution or to civil liability.

The requirements for an Exemption can be found in Sections 1038 ([§1038](#)) and 1104 ([§1104.1](#)) of Title 14 of the California Code of Regulations. In addition to the provisions of §1038 or §1104, all timber operations conducted pursuant to an Exemption or Emergency Notice must comply with all operational provisions of the Forest Practice Act and Rules, and all other laws and regulations that pertain to timber operations. While most operational provisions are the same between the three Forest Districts defined in the Forest Practice Rules (§§ [907](#), [908](#), [909](#)), there are some differences. Two of the Forest Districts cover those counties currently governed by the Governor's Proclamation: the Northern and Southern Forest Districts. The Forest Practice Rules applicable to the Northern Forest District are located in [§§931 through 949.7](#) of Title 14 of the California Code of Regulations. Those applicable to the Southern Forest District are located in [§§951 through 969.7](#).

Some commonly encountered operational provisions in the Forest Practice Rules are as follows:

- Retention of riparian vegetation (Southern Forest District only, [§953.7](#))
- Harvesting practices and erosion control (Northern Forest District, [§§934-934.9](#)) (Southern Forest District, [§§954-954.9](#))
- Site preparation (Northern Forest District, [§§935-935.4](#)) (Southern Forest District, [§§955-955.4](#))
- Watercourse and lake protection measures (Northern Forest District, [§§936-936.12](#)) (Southern Forest District, [§§956-956.12](#))
- Fuel hazard reduction (Northern Forest District, [§§937-937.10](#)) (Southern Forest District, [§§957-957.10](#))
- Fire prevention and protection (Northern Forest District, [§§938-938.10](#)) (Southern Forest District, [§§958-958.10](#))
- Wildlife protection (Northern Forest District, [§§939-939.16](#)) (Southern Forest District, [§§959-959.16](#))
- Logging roads, landings, and logging road water crossings (Northern Forest District, [§§943-943.9.1](#)) (Southern Forest District, [§§963-963.9.1](#))
- Historical and Archaeological Resources (Northern Forest District, [§§949-949.7](#)) (Southern Forest District, [§§969-969.7](#))

The list above is not intended to be exhaustive, and there are other operational provisions with which operators must comply. Furthermore, other laws not administered

by CAL FIRE remain in effect and may impact timber operations, such as the requirement for a permit from the California Department of Fish and Wildlife for activities in and around watercourses and the requirement for coverage under the applicable Basin Plan from the Regional Water Quality Control Board.

Tree service contractors who need assistance on the requirements for timber operations are encouraged to engage the services of a Registered Professional Forester or to contact the local CAL FIRE Unit Forester for guidance on complying with the Forest Practice Act & Rules.

Electronic copies of the 2017 Forest Practice Act and Rules and associated forms can be accessed [here](#). The official web site for any California statute is www.leginfo.ca.gov/calaw.html. In addition, the Office of Administrative Law maintains their website of the California Code of Regulations at <http://ccr.oal.ca.gov>. The official publication of the rules is by Barclays Official California Code of Regulations at <http://www.barclaysccr.com/index.htm>. Copies of spiral bound Rule Books are available for purchase from CAL FIRE.