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GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION

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Tree Mortality Task Force Regulations Working Group Minutes Meeting: April 22, 2016

- The Regulations Working Group continues to work on insurance issues surrounding dead tree removal prior to obtaining coverage, cancelation due to dead trees and variation in underwriting policy.
- The Regulations Guidance Workshop is scheduled for April 25, 2016 in Mariposa County. A one page notification document and Guidelines Powerpoint was prepared for the meeting. Each Agency will contribute as necessary to the presentations. Meeting Location: Mariposa County Board of Supervisors Chambers, 5100 Bullion Street, Mariposa, CA 95338. Time: 10:30 to 12:30.
- Storage Site Case Study: Mariposa County in cooperation with Caltrans has initiated a storage site case study to identify site locations and begin the development process. The workgroup will support this development effort. The group will act as a clearinghouse for storage site development issues/resolutions and will circulate the information to other Counties and the task force.
- The RWG is working on CEQA issues surrounding state agencies involved in the tree removal efforts and tribal consultations for cultural resources. Caltrans was recently asked by USFS to mark the cultural areas where tree removal will occur. The RWG is researching other state agency cultural resource protection efforts and engaging the USFS.
- The RWG is evaluating CEQA waiver under the EP and procedural efforts (documentation) need by agencies to demonstrate compliance with resource protection statutes for archeological resources, nesting birds, endangered species, etc. CEQA documentation should specify that the project is exempt from CEQA because it carries out the EP. Each agency should seek internal legal advice regarding the need to file a Notice of Exemption with the Clearinghouse.
- The RWG is working with the Yosemite/Sequoia RC&D Council and North Fork CDC to gain information on their recent storage site development efforts and has requested the current Fire Marshal requirements and the CDC security requirements for the project. The RWG wants to compare the requirements to other counties efforts.



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- The RWG is in the process of developing a FAQ for storage sites, Forest Practice Rules and log utilization.
- **Comments on CEQA provided by Sandy:** *The CEQA waiver applies to any dead or dying trees in a HHZ that state, local or utility determine must be removed to protect public health or safety because they threaten structures or infrastructure. If the trees in a HHZ are removed just as part of a forest health project, I don't think it would meet this test and the CEQA waiver would not apply. But in some cases the agency might do the tree removal to address a high fire risk that threatens nearby structures/infrastructure, and in this case the CEQA waiver would apply (because there is a threat to structure or infrastructure). However, even if the CEQA exemption does not apply, the Forest Practice Act exemptions could still apply for cutting dead/dying trees in tier II HHZs.*
- Alan received a letter from USEPA regarding Air Curtain Incinerators that was circulated to the RWG. The Prescribed Fire Group received the letter and provided the following questions. Also included are Alan's responses.
 - 1) Are CAPCOA and the districts planning to work with EPA on permits for multi-site operations within districts as described in the final paragraph?
Response: Yes. We'll be working with ARB and EPA to figure out what will be the easiest way to get them permitted.
 - 2) Two, do you believe there will still be a need to create a statewide exclusion for air curtain incinerators that explicitly qualifies them under the state's portable equipment registration program (3 year program). If I understand correctly, this would allow their Title V permit to carry over 3 years and between air districts. Is that correct? Steve Bakken seemed to believe that this would require legislative action by the state.
Response: The general permit mentioned in the letter would provide the ability over multiple years to move around. But, we will be looking at some future way to widen the exemption. This would be a long term project because it would involve changing federal regulations, so I wouldn't put too much hope for this in the short term.
- California State Licensing Board (CSLB) and Tree Removal Requirements Toby (CAL FIRE Legal Counsel) confirmed the following with the CSLB:



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- All cutting or removal of timber or other solid wood products from timberlands for commercial purposes would be subject to the Z'Berg-Nejedly Forest Practice Act. Only a timber operator's license is required for the conduct of timber operations pursuant to the Forest Practice Act. (PRC § 4578.) However, outside the realm of timber operations subject to the Forest Practice Act, a contractor's license would be required for tree removal or pruning if the value of the work equals or exceeds \$500 or if trees 15' or taller are removed, and it would be a misdemeanor for someone to perform tree removal work in an amount of \$500 or more or to remove trees 15' or taller without a proper license. (B&P § 7026.1(a)(4), 7028.) The license that would allow for tree removal is the C-61/D-49 Tree Service specialty license. A C-27 Landscaping Contractor license would be allowed to remove trees as part of a greater landscape project, but they are not eligible to do so in a forestry context. Certification as an arborist does not allow for tree removal work unless the arborist also has the required contractor's license from CSLB.
- Toby is still looking into the insurance requirements, but believes, the only insurance that is required for a Contractor's license is the \$15,000 license bond and workers compensation if the company has employees. If confirmed, this is in stark contrast to the minimum \$1 million dollar commercial general policy required of LTOs under PRC 4572 (and the \$2 million that many of the LTOs in the area will have because SPI requires that much). Another concern that we may have is the number of these contractors in the area. Considering that there will be so much non-commercial timber harvesting under the EP, we are looking into the numbers of contractors and LTOs in the affected counties.