

Appendix B

STATUTES AND REGULATIONS

This appendix has been designed to present only those laws and regulations, or portions thereof, which pertain more or less directly to wildland fire prevention on industrial operations. As such, this appendix should only be used as a quick field reference. For full and current text, meaning and proper context of laws and regulations reference should be made to the applicable codes, manuals, directives, etc.

I. FEDERAL LAWS

TITLE 18 UNITED STATES CODE (18USC)

Section 1855 - Timber set afire.

Whoever, willfully and without authority, sets on fire any timber, underbrush, or grass or other inflammable material upon the public domain or upon any lands owned or leased by or under the partial, concurrent, or exclusive jurisdiction of the United States, or under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, or upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be fined under this title or imprisoned not more than five years, or both. This section shall not apply in the case of a fire set by an allottee in the reasonable exercise of his proprietary rights in the allotment.

Section 1865 - Fires left unattended and unextinguished.

Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States, leaves said fire without totally extinguishing the same, or permits or suffers said fire to burn or spread beyond his control, or leaves or suffers said fire to burn unattended, shall be fined under this title or imprisoned not more than six months, or both.

II. FEDERAL REGULATIONS

A. U. S. FOREST SERVICE TITLE 36 CODE OF FEDERAL REGULATIONS (36 CFR)

Section 261.1 - Scope.

- (a) The prohibitions in this part apply, except as otherwise provided, when:
- (1) An act or omission occurs in the National Forest System or on a Forest development road or trail.
 - (2) An act or omission affects, threatens, or endangers property of the United States administered by the Forest Service.

- (3) An act or omission affects, threatens, or endangers a person using, or engaged in the protection, improvement or administration of the National Forest System or a Forest development road or trail.
- (4) An act or omission occurs within the designated boundaries of a component of the National Wild and Scenic Rivers System.
- (b) Nothing in this part shall preclude activities as authorized by the Wilderness Act of 1964 or the U.S. Mining Laws Act of 1872 as amended.

Section 261.2 - Definitions.

The following definitions apply to this part: [partial listing] “Campfire” means a fire, not within any building, mobile home or living accommodation mounted on a motor vehicle, which is used for cooking, personal warmth, lighting, ceremonial, or esthetic purposes. “Fire” includes campfire.

“Forest officer” means an employee of the Forest Service. “National Forest System” includes all national forest lands and waters reserved or withdrawn from the public domain of the United States, national forest lands and waters acquired through purchase exchange, donation, or other means, national grasslands and land utilization projects and waters administered under Title III of the Bankhead-Jones Farm Tenant Act (50 stat. 525, 7 U.S.C. 1010-1012), and other lands, waters, or interests therein acquired under the Wild and Scenic River Act (16 U.S.C. 1271-1287) or National Trails System Act (16 U.S.C. 1241-1249).

“Permit” means authorization in writing by a forest officer.

“State” means any State, the Commonwealth of Puerto Rico, and the District of Columbia.

“State law” means the law of any State in whose exterior boundaries an act or omission occurs regardless of whether State law is otherwise applicable.

“Stove fire” means a campfire built inside an enclosed stove or grill, a portable brazier, or a pressurized liquid or gas stove, including a space-heating device.

Section 261.5 - Fire.

The following are prohibited:

- (a) Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.
- (b) Firing any tracer bullet or incendiary ammunition.
- (c) Causing timber, trees, slash, brush or grass to burn except as authorized by permit.
- (d) Leaving a fire without completely extinguishing it.
- (e) Allowing a fire to escape from control.
- (f) Building, attending, maintaining, or using a campfire without removing all flammable material from around the campfire adequate to prevent its escape.

Section 261.50 - Orders.

- (a) The Chief, each Regional Forester, each Experiment Station Director, the Administrator of the Lake Tahoe Basin Management Unit and each Forest Supervisor may issue orders which close or restrict the use of described areas within the area over which he has jurisdiction. An order may close an area to entry or may restrict the use of an area by applying any or all of the prohibitions authorized in this subpart or any portion thereof.
- (b) ...

Section 261.52 - Fire.

When provided by an order, the following are prohibited:

- (a) Building, maintaining, attending or using a fire, campfire, or stove fire.
- (b) Using an explosive.
- (c) Smoking.
- (d) Smoking, except within an enclosed vehicle or building, a developed recreation site, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material.
- (e) Going into or being upon an area.
- (f) Possessing, discharging or using any kind of firework or other pyrotechnic device.
- (g) Entering an area without any firefighting tool prescribed by the order.
- (h) Operating an internal combustion engine except on a road.
- (i) Welding, or operating an acetylene or other torch with open flame.
- (j) Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order, meeting either:
 - (1) Department of Agriculture, Forest Service Standard 5100-1a; or
 - (2) the appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a).
- (k) Violating any state law specified in the order concerning burning, fires or which is for the purpose of preventing, or restricting the spread of fires.

Note: By authority of this regulation, several California statutes have been adopted as Federal Regulations on National Forest land. See below.

Order No. 91-1.

Fire Restrictions-Pacific Southwest Region

Pursuant to 36 CFR 261.50 (a) and (b), each of the following is prohibited on lands, Forest Development Roads or Trails under my jurisdiction:

- 1. Building, maintaining, attending or using a fire, campfire or stove fire in any area outside a developed recreation site. 36 CFR 261.52(a).
 - (a) In Zone A as defined in California Public Resources Code 4413.
 - (b) In Zone B as defined in California Public Resources Code 4413, from May 1 until the date the hazardous fire conditions have been proclaimed abated for the year.
- 2. Using an explosive. 36 CFR 261.52(b)
- 3. Smoking, except within an enclosed vehicle or building, a developed recreation site, a designated smoking area, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material. 36 CFR 261.52(d).
 - (a) In Zone A as defined in California Public Resources Code 4413.
 - (b) In Zone B as defined in California Public Resources Code 4413, from May 1 until the date the hazardous fire conditions have been proclaimed abated for the year.
- 4. Possessing, discharging or using any kind of firework or other pyrotechnic device. 36 CFR 261.52(f).
- 5. Welding or operating any acetylene or other torch with open flame. 36 CFR 261.52(i).
 - (a) In Zone A as defined in California Public Resources Code 4413.
 - (b) In Zone B as defined in California Public Resources Code 4413, from May 1 until the date that the hazardous fire conditions have been proclaimed abated for the year.
- 6. Operating or using any internal or external combustion engine on any timber, without a spark

arresting device properly installed, maintained and in effective working order meeting either:

- (1) Department of Agriculture, Forest Service Standard 5100-1a; or
- (2) appropriate Society of Automotive Engineers (SAE) Recommended Practice J335(b) and J350(a). Motor trucks, truck tractors, buses and passenger vehicles, except motorcycles, are not subject to the provisions if the exhaust system is equipped with a muffler as defined in the California Vehicle Code. 36 CFR 261.52(j).

7. Violating any of the following California State Forest and Fire Laws on National Forest Boundary, or adjacent thereto, when such act or omission affects, threatens, or endangers property of the United States administered by the Forest Service. 36 CFR 261.52(k). Public Resources Code:

- * 4291 - Reduction of Fire Hazards Around Buildings
- * 4292 - Powerline Hazard Reduction
- * 4293 - Powerline Clearance Required
- * 4296.5 - Railroad Rights-of-way Clearance
- * 4373 - Minimum Requirements for Rubbish Dumps (under permit)
- * 4374 - Minimum Requirements for Rubbish Dumps
- * 4423 - Written Permit Required for Burning
- * 4427 - Clearance and Tools Required
- * 4428 - Firefighting Tools Required on Industrial Operations
- * 4429 - Industrial Camp Tool Cache
- * 4430 - Steam-operated Engine Equipment Requirements
- * 4431 - Gasoline Power Saw - Clearance and Equipment Required
- * 4438 - Forest Product Waste Disposal (enclosed)
- * 4439 - Forest Product Waste Disposal (open)
- * 4440 - Forest Product Waste Storage
- * 4446 - Incinerator Standards

Pursuant to 36 CFR 261.50(e), each of the following are exempt from this Order:

- a. Persons with a permit specifically authorizing the otherwise prohibited act or omission.
- b. Any Federal, State, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty.

This order supersedes Order 83-2, issued August 16, 1983. These Prohibitions are in addition to the General Publications in 36 CFR Part 261. This Order may be made more restrictive by temporary orders issued by the Regional Forester or a Forest Supervisor during periods of fire danger.

Executed in San Francisco, California this 24th day of July 1991.

/s/ Laurence Bembry
for Ronald E. Stewart
Regional Forester
Pacific Southwest Region

Violation of these prohibitions is punishable by a fine of not more than \$5,000.00 for an individual, or \$10,000.00 for an organization, or imprisonment for not more than six months or both. See Title 18, U.S. Code Section 3571.

B. U.S. BUREAU OF LAND MANAGEMENT TITLE 43 CODE OF FEDERAL REGULATIONS (43 CFR)

Section 2801.1-5 - Terms and conditions.

An applicant, by accepting a right-of-way, agrees and consents to comply with and be bound by the following terms and conditions, excepting those which the Secretary may waive in a particular case:

- (a) To comply with State and Federal laws applicable to the project for which the right-of-way is approved, and to the lands which are included in the right-of-way, and lawful existing regulations thereunder.
- (b) To clear and keep clear the lands within the right-of-way to the extent and in the manner directed by the superintendent in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such manner as to decrease the fire hazard and also in accordance with such instructions as the superintendent in charge may specify.
- (c) ...
- (d) To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near the lands to be occupied under the right-of-way, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.
- (e) ...

Section 6010.4 - Closure of lands.

In the management of lands to protect the public and assure proper resource utilization, conservation, and protection, public use and travel may be temporarily restricted. For instance, areas may be closed during periods of high fire danger or unsafe conditions, or where use will interfere with or delay mineral development, timber, and livestock operations, or other authorized use of lands. Areas may also be closed temporarily to:

- (a) Protect the public health and safety.
- (b) Prevent excessive erosion.
- (c) Prevent unnecessary destruction of plant life and wildlife habitat.
- (d) Protect the natural environment.
- (e) Preserve areas having cultural or historical value.
- (f) Protect scientific studies.

Section 6010.5 - State and local laws.

Except as otherwise provided by law, State and local laws and ordinances shall apply. This refers, but is not limited, to laws and ordinances governing:

- (a) Operation and use of motor vehicles, aircraft, and boats.
- (b) Hunting and fishing.
- (c) Use of firearms.

- (d) Injury to persons or destruction of property.
- (e) Air and water pollution.
- (f) Littering.
- (g) Sanitation.
- (h) Use of fire.

Section 6010.6 - Criminal penalties.

Any person who knowingly and willfully violates any rule of conduct described in 60102 or violates any closure order issued under 6010.4 shall be fined not more than \$1,000 or imprisoned not more than 12 months, or both.

Section 8363.4 - State and local laws.

Except as otherwise provided by law, State and local laws and ordinances shall apply. This refers, but is not limited, to laws and ordinances governing:

- (a) Operation and use of motor vehicles, aircraft, and boats.
- (b) Hunting and fishing.
- (c) Use of firearms.
- (d) Injury to persons or destruction of property.
- (e) Air and water pollution.
- (f) Littering.
- (g) Sanitation.
- (h) Use of fire.

Section 8364.1 - Closure of lands.

In the management of land to protect the public and assure proper resource utilization, conservation, and protection, public use and travel may be temporarily restricted. For instance, areas may be closed during periods of high fire danger or unsafe conditions, or where use will interfere with or delay mineral development, timber, and livestock operations, or other authorized use of the lands. Areas may also be closed temporarily to:

- (a) Protect the public health and safety.
- (b) Prevent excessive erosion.
- (c) Prevent unnecessary destruction of plant life and wildlife habitat.
- (d) Protect the natural environment.
- (e) Preserve areas having cultural or historical value.
- (f) Protect scientific studies, or preserve scientific values.

C. FEDERAL OSHA (29 CFR)

Subpart U. Section 1926.900 - Blasting and the use of explosives.

General provisions.

- (a) The employer shall permit only authorized and qualified persons to handle and use explosives.
- (b) Smoking, firearms, matches, open flame lamps, and other fires, flame or heat producing devices and sparks shall be prohibited in or near explosive magazines or while explosives are being handled, transported or used.
- (c) No person shall be allowed to handle or use explosives while under the influence of intoxicating liquors, narcotics, or other dangerous drugs.

- (d) All explosives shall be accounted for at all times. Explosives not being used shall be kept in a locked magazine, unavailable to persons not authorized to handle them. The employer shall maintain an inventory and use record of all explosives. Appropriate authorities shall be notified of any loss, theft, or unauthorized entry into a magazine.
- (e) No explosives or blasting agents shall be abandoned.
- (f) No fire shall be fought where the fire is in imminent danger of contact with explosives. All employees shall be removed to a safe area and the fire area guarded against intruders.
- (g) Original containers, or Class II magazines, shall be used for taking detonators and other explosives from storage magazines to the blasting area.
- (h) When blasting is done in congested areas or in proximity to a structure, railway, or highway, or any other installation that may be damaged, the blaster shall take special precautions in the loading, delaying, initiation, and confinement of each blast with mats or other methods so as to control the throw of fragments, and thus prevent bodily injury to employees.
- (i) Employees authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution including, but not limited to, visual and audible warning signals, flags, or barricades, to ensure employee safety.
- (j) Insofar as possible, blasting operations above ground shall be conducted between sunup and sundown.
- (k) Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent powerlines, dust storms, or other sources of extraneous electricity. These precautions shall include:
 - (1) Detonators shall be short-circuited in holes which have been primed and shunted until wired into the blasting circuit.
 - (2) The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electric storm;
 - (3) (i) The prominent display of adequate signs, warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to the 1,000-foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent any premature firing of electric blasting caps. A description of any such alternatives shall be reduced to writing and shall be certified as meeting the purposes of this subdivision by the competent person consulted. The description shall be maintained at the construction site during the duration of the work, and shall be available for inspection by representatives of the Secretary of Labor.
 - (ii) Specimens of signs which would meet the requirements of paragraph (k)(3) of this section are the following: [GRAPHIC OMITTED]
 - (4) Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, shall be deenergized and effectively locked;
 - (5) Compliance with the recommendations of The Institute of the Makers of Explosives with regard to blasting in the vicinity of radio transmitters as stipulated in Radio Frequency Energy - A Potential Hazard in the Use of Electric Blasting Caps, IME Publication No. 20, March 1971.

- (l) Empty boxes and paper and fiber packing materials, which have previously contained high explosives, shall not be used again for any purpose, but shall be destroyed by burning at an approved location.
- (m) Explosives, blasting agents, and blasting supplies that are obviously deteriorated or damaged shall not be used.
- (n) Delivery and issue of explosives shall only be made by and to authorized persons and into authorized magazines or approved temporary storage or handling areas.
- (o) Blasting operations in the proximity of overhead power lines, communication lines, utility services, or other services and structures shall not be carried on until the operators and/or owners have been notified and measures for safe control have been taken.
- (p) The use of black powder shall be prohibited.
- (q) All loading and firing shall be directed and supervised by competent persons thoroughly experienced in this field.
- (r) All blasts shall be fired electrically with an electric blasting machine or properly designed electric power source, except as provided in Sec. 1926.906 (a) and (r).
- (s) Buildings used for the mixing of blasting agents shall conform to the requirements of this section.
 - (1) Buildings shall be of noncombustible construction or sheet metal on wood studs.
 - (2) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.
 - (3) All fuel oil storage facilities shall be separated from the mixing plant and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.
 - (4) The building shall be well ventilated.
 - (5) Heating units which do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be provided exclusively from units located outside the mixing building.
 - (6) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.
- (t) Buildings used for the mixing of water gels shall conform to the requirements of this subdivision.
 - (1) Buildings shall be of noncombustible construction or sheet metal on wood studs.
 - (2) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.
 - (3) Where fuel oil is used all fuel oil storage facilities shall be separated from the mixing plant and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.
 - (4) The building shall be well ventilated.
 - (5) Heating units that do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be provided exclusively from units located outside of the mixing building.
 - (6) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.

III. STATE LAWS

A. HEALTH AND SAFETY CODE (HSC)

Section 12000 - Defined.

For the purposes of this part, “explosives” means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion, and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with others, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat. “Explosives” includes, but is not limited to, any explosives as defined in Section 841 of Title 18 of the United States Code and published pursuant to Section 55.23 of Title 27 of the Code of Federal Regulations, and any of the following:

- (a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, or commercial boosters.
- (b) Substances determined to be division 1.1, 1.2, 1.3, or 1.6 explosives as classified by the United States Department of Transportation.
- (c) Nitro carbo nitrate substances (blasting agent) classified as division 1.5 explosives by the United States Department of Transportation.
- (d) Any material designated as an explosive by the State Fire Marshal. The designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the Government Code to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation pursuant to provisions of Section 841 of Title 18 of the United States Code and published pursuant to Section 55.23 of Title 27 of the Code of Federal Regulations that define explosives.
- (e) Certain division 1.4 explosives as designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.
- (f) For the purposes of this part, “explosives” does not include any destructive device, as defined in Section 12301 of the Penal Code, nor does it include ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.

Section 12002 - City and County Ordinance.

Except when transporting explosives on highways and at safe stopping places established under the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code, this part does not affect the operation of provisions of any city, county, or city and county ordinance respecting the delivery, storage, and handling of explosives which are at least as restrictive as the provisions of this part.

Section 12081 - Regulations.

Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930, the State Fire Marshal shall prepare and adopt, in accordance with Chapter 3.5 (commencing at Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations that are not in conflict with this part, relating to the sale, use, handling, possession, and storage of explosives.

The building standards adopted and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and the other regulations adopted by the State Fire Marshal

shall do all of the following:

- (a) Make reasonable allowances for storage facilities in existence when the regulations become effective. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.
- (b) Be based on performance standards wherever possible.
- (c) Make reasonable allowances for the storage of gunpowder for commercial and private use. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.
- (d) Set uniform requirements for the use and handling of explosives that would apply statewide.
- (e) The building standards published in the California Building Standards Code relating to storage of explosives and the other regulations adopted by the State Fire Marshal pursuant to this section shall apply uniformly throughout the state, and no city, county, city and county, or other political subdivision of this state, including, but not limited to, a chartered city, county, or city and county, shall adopt or enforce any ordinance or regulation that is inconsistent with this section.
- (f) In making the regulations, the State Fire Marshal shall consider as evidence of generally accepted safety standards the publications of the National Fire Protection Association, the United States Bureau of Mines, the United States Department of Defense, and the Institute of Makers of Explosives.
- (g) The regulations shall establish standards relating to the size, form, contents, and location of caution placards to be placed on or near storage facilities for division 1.1, 1.2, and 1.3 explosives as set forth in Article 77 of the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc. or similar standards that are consistent with the United States Department of Transportation classifications, or for any explosives as defined in Section 841 of Title 18 of the United States Code and published pursuant to Section 55.23 of Title 27 of the Code of Federal Regulations.

Section 12101 Permit Required.

- (a) No person shall do any one of the following without first having made application for and received a permit in accordance with this section:
 - (1) Manufacture explosives.
 - (2) Sell, furnish, or give away explosives.
 - (3) Receive, store, or possess explosives.
 - (4) Transport explosives.
 - (5) Use explosives.
 - (6) Operate a terminal for handling explosives.
 - (7) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the Department of the California Highway Patrol under Division 14 (commencing with Section 31600) of the Vehicle Code.

- (b) Application for a permit shall be made to the appropriate issuing authority.
- (c) (1) A permit shall be obtained from the issuing authority having the responsibility in the area where the activity, as specified in subdivision (a), is to be conducted.
 - (2) If the person holding a valid permit for the use or storage of explosives desires to purchase or receive explosives in a jurisdiction other than that of intended use or storage, the person shall first present the permit to the issuing authority in the jurisdiction of purchase or receipt for endorsement. The issuing authority may include any reasonable restrictions or conditions which the authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives within the authority's jurisdiction. If, for any reason, the issuing authority refuses to endorse the permit previously issued in the area of intended use or storage, the authority shall immediately notify both the issuing authority who issued the permit and the Department of Justice of the fact of the refusal and the reasons for the refusal.
 - (3) Every person who sells, gives away, delivers, or otherwise disposes of explosives to another person shall first be satisfied that the person receiving the explosives has a permit valid for that purpose. When the permit to receive explosives indicates that the intended storage or use of the explosives is other than in that area in which the permittee receives the explosives, the person who sells, gives away, delivers, or otherwise disposes of the explosives shall insure that the permit has been properly endorsed by a local issuing authority and, further, shall immediately send a copy of the record of sale to the issuing authority who originally issued the permit in the area of intended storage or use. The issuing authority in the area in which the explosives are received or sold shall not issue a permit for the possession, use, or storage of explosives in an area not within the authority's jurisdiction.
- (d) In the event any person desires to receive explosives for use in an area outside of this state, a permit to receive the explosives shall be obtained from the State Fire Marshal.
- (e) A permit may include any restrictions or conditions which the issuing authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives.
- (f) A permit shall remain valid only until the time when the act or acts authorized by the permit are performed, but in no event shall the permit remain valid for a period longer than one year from the date of issuance of the permit.
- (g) Any valid permit which authorizes the performance of any act shall not constitute authorization for the performance of any act not stipulated in the permit.
- (h) An issuing authority shall not issue a permit authorizing the transportation of explosives pursuant to this section if the display of placards for that transportation is required by Section 27903 of the Vehicle Code, unless the driver possesses a license for the transportation of hazardous materials issued pursuant to Division 14.1 (commencing with Section 32000) of the Vehicle Code, or the explosives are a hazardous waste or extremely hazardous waste, as defined in Sections 25117 and 25115 of the Health and Safety Code, and the transporter is currently registered as a hazardous waste hauler pursuant to Section 25163 of the Health and Safety Code.
- (i) An issuing authority shall not issue a permit pursuant to this section authorizing the

handling or storage of division 1.1, 1.2, or 1.3 explosives in a building, unless the building has caution placards which meet the standards established pursuant to subdivision (g) of Section 12081.

- (j) (1) A permit shall not be issued to a person who meets any of the following criteria:
 - (A) He or she has been convicted of a felony.
 - (B) He or she is addicted to a narcotic drug.
 - (C) He or she is in a class prohibited by Section 8100 or 8103 of the Welfare and Institutions Code or Section 12021 or 12021.1 of the Penal Code.
- (2) For purposes of determining whether a person meets any of the criteria set forth in this subdivision, the issuing authority shall obtain two sets of fingerprints on prescribed cards from all persons applying for a permit under this section and shall submit these cards to the Department of Justice. The Department of Justice shall utilize the fingerprint cards to make inquiries both within this state and to the Federal Bureau of Investigation regarding the criminal history of the applicant identified on the fingerprint card.

This paragraph does not apply to any person possessing a current certificate of eligibility issued pursuant to paragraph (4) of subdivision (a) of Section 12071.
- (k) An issuing authority shall inquire with the Department of Justice for the purposes of determining whether a person who is applying for a permit meets any of the criteria specified in subdivision (j). The Department of Justice shall determine whether a person who is applying for a permit meets any of the criteria specified in subdivision (j) and shall either grant or deny clearance for a permit to be issued pursuant to the determination. The Department of Justice shall not disclose the contents of a person's records to any person who is not authorized to receive the information in order to ensure confidentiality.

Section 12150 - Containers.

Except for explosives kept only at an explosive manufacturing plant, no person shall possess, keep, or store any explosive which is not completely encased in a tight metal, wooden, or fiber container, or a container approved by the Interstate Commerce Commission. No person having any explosives in his possession or control shall under any circumstances permit or allow any grains or particles of such explosives to be or remain on the outside of, or about, the containers in which such explosives are kept.

Section 12150.5 - Blasting Caps.

Every person having any blasting caps (electric or nonelectric) in his possession or control shall keep the same securely deposited in a locked approved magazine, except when taken therefrom for actual use, transportation, or sale.

Section 12151 - Regulations.

Except while in the custody of a common carrier or in course of transportation pending delivery to a consignee, all explosives shall be kept or stored as specified in the rules or regulations adopted by the State Fire Marshal pursuant to this part.

Section 13000 - Responsibility in Control of Fire.

Every person is guilty of a misdemeanor who allows a fire kindled or attended by him to escape from his control or to spread to the lands of any person other than the builder of the fire without using every reasonable and proper precaution to prevent the fire from escaping.

Section 13001 - Causing Fire, Misdemeanor.

Every person is guilty of a misdemeanor who, through careless or negligent action, throws or places any lighted cigarette, cigar, ashes, or other flaming or glowing substance, or any substance or thing which may cause a fire, in any place where it may directly or indirectly start a fire, or who uses or operates a welding torch, tar pot or any other device which may cause a fire who does not clear the inflammable material surrounding the operation or take such other reasonable precautions necessary to insure against the starting and spreading of fire.

Section 13002 - Throwing From Vehicle Substance Which May Cause Fire.

- (a) Every person is guilty of a misdemeanor who throws or discharges any lighted or nonlighted cigarette, cigar, match, or any flaming or glowing substance, or any substance or thing which may cause a fire upon any highway, including any portion of the right-of-way of any highway, upon any sidewalk, or upon any public or private property. This subdivision does not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or fire district, or the Department of Forestry and Fire Protection, in which case this section applies.
- (b) Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than eight hours.

Section 13003 - Spark arresters required on steam powered equipment.

Every person is guilty of a misdemeanor who uses any steam-powered logging locomotive, donkey, or threshing engine, or any other steam engine or steam boiler, in or near any forest, brush, grass, grain, or stubble land, unless the steam engine or steam boiler is provided with adequate devices to prevent the escape of fire or sparks and unless he uses every reasonable precaution to prevent the causing of fire thereby.

Section 13007 - Liability for Damage.

Any person who personally or through another willfully, negligently, or in violation of law, sets fire to, allows fire to be set to, or allows a fire kindled or attended by him to escape to, the property of another, whether privately or publicly owned, is liable to the owner of such property for any damages to the property caused by the fire.

Section 13008 - Due Diligence Required.

Any person who allows any fire burning upon his property to escape to the property of another, whether privately or publicly owned, without exercising due diligence to control such fire, is liable to the owner of such property for the damages to the property caused by the fire.

Section 13009 - Suppression Cost Collectible.

- (a) Any person (1) who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him or her to escape onto any public or private property, (2) other than a mortgagee, who, being in actual possession of a structure, fails or refuses to correct, within the time allotted for correction, despite having the right to do so, a fire hazard prohibited by law, for which a public agency properly has issued a notice of violation respecting the hazard, or (3) including a mortgagee, who, having an obligation under other provisions of law to correct a fire hazard prohibited by law, for which a public agency has properly issued a notice of violation respecting the hazard, fails or refuses to correct the hazard within the time allotted for correction, despite having the right to do so, is liable for the fire suppression costs incurred in fighting the fire and for the cost of providing rescue or emergency medical services, and those costs shall be a charge against that person. The charge shall constitute a debt of that person, and is collectible by the person, or by the federal, state, county, public, or private agency, incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.
- (b) Public agencies participating in fire suppression, rescue, or emergency medical services as set forth in subdivision (a), may designate one or more of the participating agencies to bring an action to recover costs incurred by all of the participating agencies. An agency designated by the other participating agencies to bring an action pursuant to this section shall declare that authorization and its basis in the complaint, and shall itemize in the complaint the total amounts claimed under this section by each represented agency.
- (c) Any costs incurred by the Department of Forestry and Fire Protection in suppressing any wildland fire originating or spreading from a prescribed burning operation conducted by the department pursuant to a contract entered into pursuant to Article 2 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code shall not be collectible from any party to the contract, including any private consultant or contractor who entered into an agreement with that party pursuant to subdivision (d) of Section 4475.5 of the Public Resources Code, as provided in subdivision (a), to the extent that those costs were not incurred as a result of a violation of any provision of the contract.
- (d) This section applies to all areas of the state, regardless of whether primarily wildlands, sparsely developed, or urban.

Section 13009.1 - Fire Hazard; Correction.

- (a) Any person (2) other than a mortgagee, who, being in actual possession of a structure, fails or refuses to correct, within the time allotted for correction, despite having the right to do so, a fire hazard prohibited by law, for which a public agency properly has issued a notice of violation respecting the hazard, or (3) including a mortgagee, who, having an obligation under other provisions of law to correct a fire hazard prohibited by law, for which a public agency properly has issued a notice of violation respecting the hazard, fails or refuses to correct the hazard within the time allotted for correction, despite having the right to do so, is liable for both of the following:
 - (1) The cost of investigating and making any reports with respect to the fire.
 - (2) The costs relating to accounting for that fire and the collection of any funds pursuant to Section 13009, including, but not limited to, the administrative costs of operating a fire suppression cost recovery program. The liability imposed pursuant to this

- paragraph is limited to the actual amount expended which is attributable to the fire.
- (b) In any civil action brought for the recovery of costs provided in this section, the court in its discretion may impose the amount of liability for costs described in subdivision (a).
 - (c) The burden of proof as to liability shall be on the plaintiff and shall be by a preponderance of the evidence in an action alleging that the defendant is liable for costs pursuant to this section. The burden of proof as to the amount of costs recoverable shall be on the plaintiff and shall be by a preponderance of the evidence in any action brought pursuant to this section.
 - (d) Any testimony, admission, or any other statement made by the defendant in any proceeding brought pursuant to this section, or any evidence derived from the testimony, admission or other statement, shall not be admitted or otherwise used in any criminal proceeding arising out of the same conduct.
 - (e) The liability constitutes a debt of that person and is collectible by the person, or by the federal, state, county, public, or private agency, incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.
 - (f) This section applies in all areas of the state, regardless of whether primarily wildlands, sparsely developed, or urban.

Section 13009.5 - Inmate Labor; Charges.

Where the Department of Forestry and Fire Protection utilizes inmate labor for fighting fires, the charge for their use, for the purpose of Section 13009, shall be set by the Director of Forestry and Fire Protection. In determining the charges, he or she may consider, in addition to costs incurred by the department, the per capita cost to the state of maintaining the inmates.

Section 13009.6 - Emergency Response; Expenses.

- (a)(1) Those expenses of an emergency response necessary to protect the public from a real and imminent threat to health and safety by a public agency to confine, prevent, or mitigate the release, escape, or burning of hazardous substances described in subdivision (c) are a charge against any person whose negligence causes the incident, if either of the following occurs:
 - (A) Evacuation beyond the property where the incident originates is necessary to prevent loss of life or injury.
 - (B) The incident results in the spread of hazardous substances or fire posing a real and imminent threat to public health and safety beyond the property of origin.
- (2) Expenses reimbursable to a public agency under this section are a debt of the person liable therefor, and shall be collectible in the same manner as in the case of an obligation under contract, express or implied.
- (3) The charge created against the person by this subdivision is also a charge against the person's employer if the negligence causing the incident occurs in the course of the person's employment.
- (4) The public agencies participating in an emergency response meeting the requirements of paragraph (1) of this subdivision may designate one or more of the participating agencies to bring an action to recover the expenses incurred by all of the designating agencies which are reimbursable under this section.
- (5) An action to recover expenses under this section may be joined with any civil action for penalties, fines, injunctive, or other relief brought against the responsible person or employer, or both, arising out of the same incident.

- (b) There shall be deducted from any amount otherwise recoverable under this section, the amount of any reimbursement for eligible costs received by a public agency pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20. The amount so reimbursed may be recovered as provided in Section 25360.
- (c) As used in this section, “hazardous substance” means any hazardous substance listed in Section 25316 of this code or in Section 6382 of the Labor Code.
- (d) As used in this section, “mitigate” includes actions by a public agency to monitor or model ambient levels of airborne hazardous substances for the purpose of determining or assisting in the determination of whether or not to evacuate areas around the property where the incident originates, or to determine or assist in the determination of which areas around the property where the incident originates should be evacuated.

Section 13160 - Regulations: State Fire Marshal.

With the advice of the State Fire Advisory Board, the State Fire Marshal shall adopt, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1 of Division 3 of Title 2 of the Government Code, and administer regulations and standards as he or she may deem necessary for the protection and preservation of life and property to control the servicing, including charging, and testing, of all portable fire extinguishers for controlling and extinguishing fires, and for controlling the sale and marketing of all such devices with respect to conformance with standards of their use, capacity, and effectiveness. In adopting the regulations, the State Fire Marshal shall consider the standards of the National Fire Protection Association.

Section 13162 - Requirements: distribution, etc.

No person shall market, distribute or sell any portable fire extinguisher in this state unless it meets the following requirements:

- (a) It complies with regulations and standards adopted by the State Fire Marshal pursuant to Section 13160.
- (b) It has been examined by and bears the label of Underwriters’ Laboratories Inc. or another testing laboratory which is approved by the State Fire Marshal as qualified to test portable fire extinguishers. Any testing laboratory approved by the State Fire Marshal shall have facilities, personnel, and operating procedures equivalent to those of the Underwriters’ Laboratories, Inc.
- (c) It does not use as an extinguishing agent any carbon tetrachloride, chlorbromomethane or methyl bromide.

The State Fire Marshal may grant reasonable exceptions to this subdivision when the extinguisher is intended for industrial use in places to which the public is not invited or admitted. The provisions of this section apply to the state and any political subdivision thereof.

C. PUBLIC RESOURCES CODE (PRC)

Section 4021 - Penalty.

Except as otherwise provided the willful or negligent commission of any of the acts prohibited or the omission of any of the acts required by Chapter 2 (commencing with Section 4251) to Chapter 6 (commencing with Section 4411), inclusive, of Part 2 of this division is a misdemeanor.

Section 4101 - "Person" Defined.

"Person" includes any agency of the state, county, city, district, or other local public agency, and any individual, firm, association, partnership, business trust, corporation or company.

Section 4103 - "Forest Fire" Defined.

"Forest Fire" means a fire burning uncontrolled on lands covered wholly or in part by timber, brush, grass, grain, or other flammable vegetation.

Section 4103.4 - Open Fire Defined.

"Open fire" means any fire, controlled or uncontrolled, including a campfire, burning outside of any structure, mobilehome, or living accommodation mounted on a motor vehicle. "Open fire" does not include portable lanterns designed to emit light resulting from a combustion process.

Section 4103.5 - Campfire Defined.

"Campfire" means a fire which is used for cooking, personal warmth, lighting, ceremonial, or aesthetic purposes, including fires contained within outdoor fireplaces and enclosed stoves with flues or chimneys, stoves using jellied, liquid, solid, or gaseous fuels, portable barbecue pits and braziers, or space heating devices which are used outside any structure, mobilehome, or living accommodation mounted on a motor vehicle. "Campfire" does not include portable lanterns designed to emit light resulting from a combustion process.

Section 4104 - "Uncontrolled Fire" Defined.

The term "uncontrolled fire," as used in this division, means any fire which threatens to destroy life, property, or resources and either: (1) unattended by any person; (2) is attended by persons unable to prevent its unrestricted spread; or (3) is burning with such velocity or intensity that it could not be readily controlled with those ordinary tools available to private persons at the fire scene.

Section 4117 - Local Ordinances.

Any county, city, or district may adopt ordinances, rules, or regulations to provide fire prevention restrictions or regulations that are necessary to meet local conditions of weather, vegetation, or other fire hazards. Such ordinances, rules, or regulations may be more restrictive than state statutes in order to meet local fire hazard conditions.

Section 4118 - Burning of Vegetation, Public Purpose.

The burning of growing, dead, or downed vegetation is for a public purpose if the department has determined that the burning of such vegetation is necessary for the prevention or suppression of forest fires.

Section 4119 - Enforcement of State Forest and Fire Laws.

The department, or its duly authorized agent, shall enforce the state forest and fire laws. The department may inspect all properties, except the interior of dwellings, subject to the state forest and fire laws, for the purpose of ascertaining compliance with such laws.

Note: By interagency agreement, many employees of the U. S. Forest Service, Bureau of Land Management, National Park Service and certain county fire departments are "duly authorized agents" of the Department of Forestry and Fire Protection.

Section 4170 - Uncontrolled Fire is Public Nuisance.

Any uncontrolled fire burning on any lands covered wholly or in part by timber, brush, grass, grain or

any other flammable material, without proper precaution being taken to prevent its spread notwithstanding the origin of such fire, is a public nuisance by reason of its menace to life and property.

Section 4171 - Public Nuisances-Defined.

Any condition endangering public safety by creating a fire hazard and which exists upon any property which is included within any state responsibility area is a public nuisance.

Section 4172 - Abatement of Nuisance, Notice.

Whenever the director determines that a public nuisance, as defined in Section 4171, exists, he shall notify the owner of the property to abate the public nuisance. If the owner is unknown, a copy of the notice shall be posted upon the property.

Section 4291 - Firebreaks; Trimming of Trees; Chimney Screens; Variance or Exemption.

Any person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush-covered lands, or grass-covered lands, or any land which is covered with flammable material, shall at all times do all of the following:

- (a) Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.
- (b) Maintain around and adjacent to any such building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth which is located from 30 feet to 100 feet from such building or structure or to the property line, whichever is nearer, as may be required by the director if he finds that, because of extra hazardous conditions, a firebreak of only 30 feet around such building or structure is not sufficient to provide reasonable fire safety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.
- (c) Remove that portion of any tree which extends within 10 feet of the outlet of any chimney or stovepipe.
- (d) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.
- (e) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.
- (f) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.
- (g) Except as provided in Section 18930 of the Health and Safety Code, the director may adopt regulations exempting structures with exteriors constructed entirely of nonflammable materials, or conditioned upon the contents and composition of same, he may vary the requirements respecting the removing or clearing away of flammable

vegetation or other combustible growth with respect to the area surrounding said structures.

No such exemption or variance shall apply unless and until the occupant thereof, or if there be no occupant, then the owner thereof, files with the department, in such form as the director shall prescribe, a written consent to the inspection of the interior and contents of such structure to ascertain whether the provisions hereof and the regulations adopted hereunder are complied with at all times.

Note: Wooden culverts, trestles and bridges are considered as structures insofar as this code section is concerned.

Section 4291.1 - Defensible Space; Violation.

- (a) Notwithstanding Section 4021, a violation of Section 4291 is an infraction punishable by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500). If a person is convicted of a second violation of Section 4291 within five years, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250), nor more than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, the department may perform or contract for the performance of work necessary to comply with Section 4291 and may bill the person convicted for the costs incurred, in which case the person convicted, upon payment of those costs, shall not be required to pay the fine. If a person convicted of a violation of Section 4291 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.
- (b) If a person convicted of a violation of Section 4291 produces in court verification prior to imposition of a fine by the court, that the condition resulting in the citation no longer exists, the court may reduce the fine imposed for the violation of Section 4291 to fifty dollars (\$50).

Section 4413 - "Zone A"

Includes Mono, Inyo, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial Counties.

Section 4414 - "Zone B"

Includes any county and portion of any county which is not included in Zone A.

Section 4422 - Allowing Fire to Escape.

A person shall not do any of the following:

- (a) Willfully or knowingly allow fire to burn uncontrolled on land which he owns or controls, or to escape to the lands of any person other than that of the owner.
- (b) Allow any fire kindled or attended by him to escape from his control or to spread to the land of any person other than from the land from which the fire originated.

Section 4423 - Burning Permits, Zones, Times.

A person shall not burn any brush, stumps, logs, fallen timber, fallows, slash, grass-covered land, brush-covered land, forest-covered land, or other flammable material, in any state responsibility area, area receiving fire protection by the department by contract, or upon federal lands administered by the

United States Department of Agriculture or Department of the Interior, unless the person has a written permit from the department or its duly authorized representative or the authorized federal officer on federal lands administered by the United States Department of Agriculture or of the Interior and in strict accordance with the terms of the permit:

- (a) At any time in Zone A.
- (b) At any time in Zone B between May 1st and the date the director declares, by proclamation, that the hazardous fire conditions have abated for that year, or at any other time in Zone B during any year when the director has declared, by proclamation, that unusual fire hazard conditions exist in the area.

The issuing agency may require the permittee to contact the agency to determine permit suspension status prior to burning.

Note: See Sections 4413 and 4414 above.

Section 4423.1 - Burning Permits; Proclamation.

Burning under permit by any person on public or private lands, except within incorporated cities, may be suspended, restricted, or otherwise prohibited by proclamation. Any of the following public officers may issue a proclamation, which shall be applicable within their respective jurisdictions:

- (a) The director or his or her designee.
- (b) Any county fire warden with the approval of the director.
- (c) The federal officers directing activities within California of the United States Bureau of Land Management, the National Park Service, and the United States Forest Service. The proclamation may be issued when, in the judgment of the issuing public official, the menace of destruction by fire to life, improved property, or natural resources is, or is forecast to become, extreme due to critical fire weather, fire suppression forces being heavily committed to control fires already burning, acute dryness of the vegetation, or other factors that may cause the rapid spread of fire. A proclamation is effective on issuance or at a time specified therein and shall remain in effect until a proclamation removing the suspension, restriction, or prohibition is issued. The proclamation may be effective for a single day or longer. The proclamation shall declare the conditions that necessitate its issuance, designate the geographic area to which it applies, require that all or specified burning under permit be suspended, restricted, or prohibited until the conditions necessitating the proclamation abate, and identify the public official issuing the proclamation. The proclamation may be in the form of a verbal or tape-recorded telephone message, a press release, or a posted order. The proclamation may be issued without complying with Chapter 3.5 (commencing with Section 11340) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.4423.2.

Section 4423.2 - Burning Permits; Temporary.

- (a) Whenever the burning under permit has been suspended, restricted, or prohibited by proclamation pursuant to Section 4423.1, the officer having jurisdiction may issue a restricted temporary burning permit in instances in which the continuation of burning maybe essential for reasons of public health, safety, or welfare. The permit may stipulate any special precautions that are required to be followed to reduce the risk of uncontrolled fire originating from the operation.

- (b) Violation of the terms of a restricted temporary burning permit is a misdemeanor, and any person upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars (\$250). No part of the fine shall be suspended. The court may permit the fine prescribed by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

Section 4423.3 - Burning Permits; Campfires.

The use of a campfire is not restricted or prohibited by a proclamation issued pursuant to Section 4423.1, unless specifically restricted or prohibited in that or a subsequent proclamation. If restricted by proclamation, campfires shall be confined to facilities constructed for that purpose within the confines of a campground established, maintained, and open for public use, whether publicly or privately owned.

Section 4423.4 - Outside Smoking.

Outdoor smoking is not restricted or prohibited by a proclamation issued pursuant to Section 4423.1, unless specifically restricted or prohibited in that or a subsequent proclamation. If restricted by proclamation, smoking shall be confined to the following:

- (a) Within motor vehicles while operating or parked on established roads, rest stops, or parking areas cleared of flammable vegetation.
- (b) Within established campgrounds open to the public.
- (c) Within an area that is at least three feet or approximately one meter in diameter which has been cleared to mineral soil by removal of all flammable vegetation and duff. The exempted locations may be included within the smoking ban if specifically noticed in the proclamation.

Section 4423.5 - Burning in "Closed" Area; Violation.

Use of open fire or burning under permit within an area closed by proclamation pursuant to the provisions of Section 4423.1, except as provided in Sections 4423.2, 4423.3, and 4423.4, is a misdemeanor and any person upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100). No part of such fine shall be suspended. The court may permit the fine prescribed by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

Section 4425 - Violations of Permit, Effect.

Any violation of the terms of a burning permit issued pursuant to Section 4423, a restricted temporary burning permit issued pursuant to Section 4423.2, or a campfire permit issued pursuant to Section 4433 renders the permit null and void.

Section 4427 - Clearing and Tools Required.

During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate any motor, engine, boiler, stationary equipment, welding equipment, cutting torches, tarpots, or grinding devices from which a spark, fire, or flame may originate, which is located on or near any forest-covered land, brush-covered land, or grass-covered land, without doing both of the following:

- (a) First clearing away all flammable material, including snags, from the area around such operation for a distance of 10 feet.
- (b) Maintain one serviceable round point shovel with an overall length of not less than forty-six (46) inches and one backpack pump water-type fire extinguisher fully equipped and ready for use at the immediate area during the operation.

This section does not apply to portable powersaws and other portable tools powered by a gasoline-

fueled internal combustion engine. (see Sec. 4431 re powersaws).

Section 4428 - Fire Fighting Tools Required on Industrial Operations; Power Equipment and Log Landings.

No person, except any member of an emergency crew or except the driver or owner of any service vehicle owned or operated by or for, or operated under contract with, a publicly or privately owned utility, which is used in the construction, operation, removal, or repair of the property or facilities of such utility when engaged in emergency operations, shall use or operate any vehicle, machine, tool or equipment powered by an internal combustion engine operated on hydrocarbon fuels, in any industrial operation located on or near any forest, brush, or grass-covered land between April 1 and December 1 of any year, or at any other time when ground litter and vegetation will sustain combustion permitting the spread of fire, without providing and maintaining, for firefighting purposes only, suitable and serviceable tools in the amounts, manner and location prescribed in this section.

- (a) On any such operation a sealed box of tools shall be located, within the operating area, at a point accessible in the event of fire. This fire toolbox shall contain: one backpack pump-type fire extinguisher filled with water, two axes, two McLeod fire tools, and a sufficient number of shovels so that each employee at the operation can be equipped to fight fire.
- (b) One or more serviceable chainsaws of three and one-half or more horsepower with a cutting bar 20 inches in length or longer shall be immediately available within the operating area, or, in the alternative a full set of timber-felling tools shall be located in the fire toolbox, including one crosscut falling saw six feet in length, one double-bit ax with a 36-inch handle, one sledge hammer or maul with a head weight of six, or more, pounds and handle length of 32 inches, or more, and not less than two falling wedges.
- (c) Each rail speeder and passenger vehicle, used on such operation shall be equipped with one shovel and one ax, and any other vehicle used on the operation shall be equipped with one shovel. Each tractor used in such operation shall be equipped with one shovel.
- (d) As used in this section:
 - 1) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn over any land surface, excepting a device moved by human power or used exclusively upon stationary rails or tracks.
 - 2) "Passenger vehicle" means a vehicle which is self-propelled and which is designed for carrying not more than 10 persons including the driver, and which is used or maintained for the transportation of persons, but does not include any motortruck or truck tractor.

Section 4429 - Fire Tool Boxes Required.

During any time of the year when burning permits are required in an area pursuant to this article, at any camp maintained in such area for the residence of employees, or at any local headquarters in such area of any industrial, agricultural, or other operations on or near any forest-covered land or brush-covered land, there shall be provided and maintained at all times, in a specific location, for firefighting purposes only, a sufficient supply of serviceable tools to equip 50 percent of the able-bodied, personnel, resident of such camp, or working out of such headquarters, for fighting fires. Among these tools shall be included shovels, axes, saws, backpack pumps, and scraping tools. With such tools there shall also be

one serviceable headlight adaptable for attachment to at least one-half of the tractor-bulldozers used on the operation, and a sufficient number of canteens and flashlights to equip a third of the able-bodied personnel.

Section 4431 - Gasoline Power Saw-Clearance and Equipment Required.

During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate or cause to be operated in the area any portable saw, auger, drill, tamper, or other portable tool powered by a gasoline-fueled internal combustion engine on or near any forest-covered land, brush-covered land, or grass-covered land, within 25 feet from any flammable material, without providing and maintaining at the immediate locations of use or operation of the saw or tool, for firefighting purposes one serviceable round point shovel, with an overall length of not less than 46 inches, or one serviceable fire extinguisher. The Director of Forestry and Fire Protection shall by administrative regulation specify the type and size of fire extinguisher necessary to provide at least minimum assurance of controlling fire caused by use of portable power tools under various climatic and fuel conditions. The required fire tools shall at no time be farther from the point of operation of the power saw or tool than 25 feet with unrestricted access for the operator from the point of operation.

Section 4432 - Neglecting Campfire.

A person shall not leave a campfire, kindled or attended by him, burning or unextinguished unless one of the following requirements is satisfied:

- (a) He leaves some person in attendance.
- (b) The fire is enclosed within a stove, oven, drum, or other nonflammable container, in such manner that the fire cannot escape from the container.

No person shall allow a campfire, kindled or attended by him, to spread after it is built.

Note: A campfire: A fire used by one or more persons while camping, picnicking, recreating, or working on grass, brush, or forest-covered land, to provide any one or a combination of the following: heat for cooking, heat for personal warmth, light for ceremonial, esthetic or other purposes. Campfires include open fires, those contained within fireplaces or enclosed stoves with flues or chimneys, stoves using pressurized liquid or gaseous fuels, portable braziers or space-heating devices which are used outside of any building, trailer, house, or living accommodation mounted on motor vehicle. Liability: A campfire builder will be held liable for the cost of suppression and damages caused by any wildfire that starts through negligence on his part.

Section 4433 - Same: Permits Required.

A person shall not light, maintain, or use a campfire upon any brush-covered land, grass-covered land, or forest-covered land which is the property of another person unless he first obtains a written permit from the owner, lessee, or agent of the owner or lessee of the property. If, however, campsites and special areas have been established by the property owner and posted as areas for camping, a permit is not necessary. A written campfire permit duly issued by or under the authority of the United States Forest Service is necessary for use on land under the jurisdiction and control of the United States Forest Service.

Section 4434 - Campfire Escape.

The escape of any campfire from the control of any person who is maintaining the campfire is prima facie evidence that such person was negligent in maintaining the campfire.

Section 4435 - Origination of Fire-Negligence.

If any fire originates from the operation or use of any engine, machine, barbecue, incinerator, railroad rolling stock, chimney, or any other device which may kindle a fire, the occurrence of the fire is prima

facie evidence of negligence in the maintenance, operation, or use of such engine, machine, barbecue, incinerator, railroad rolling stock, chimney or other device. If such fire escapes from the place where it originated and it can be determined which person's negligence caused such fire, such person is guilty of a misdemeanor.

Section 4436 - Refusal to Fight Fire.

A person shall not refuse or fail to render assistance in combating a forest, brush, or grass fire at the summons of the department, or its authorized agent who is charged with the prevention or suppression of fire or the enforcement of the state fire laws, or any county firewarden, fireman, or county officer who is charged with the duty of preventing or combating forest, brush, or grass fires, or any officer of a county fire protection district, unless prevented from so doing by sickness or physical disability.

Section 4437 - Disposal of Flammable Mill Waste.

- (a) Outside the exterior boundaries of cities, every processor of forest products shall exercise due diligence in the disposal of flammable material incident to the processing, so that the material does not cause the inception or spread of uncontrolled fire.
- (b) Every person, copartnership, firm, corporation, or company that operates a sawmill or plant engaged in the processing or converting of forest products into lumber, shook, ties, poles, posts, veneer, shakes, shingles, planed, or milled products, shall dispose of flammable material incident to that operation. If such flammable material is not to be used as fuel, or as a byproduct, within the operation, it shall be disposed of by burning or by other alternative methods which effectively prevent the flammable material from constituting a fire hazard. Such disposal or storage of flammable waste material or residue shall be made in any of the ways which are prescribed in Section 4438, 4439, or 4440.
- (c) The director may establish regulations for the storage, disposal, or use of forest waste or residue on land as a soil amendment or soil protection measure or for its disposal by fire. Regulations shall be adopted by the director in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for the purpose of eliminating the potential of fire resulting from spontaneous combustion, other ignition sources, or wildfire escaping the forest product waste or residue storage, use, or disposal areas.

Section 4438 - Same.

Flammable forest product waste material may be disposed of by means of fire in an enclosed device effective in preventing the spread of sparks or fire, situated in an area cleared of grass, grain, brush, slash, litter, and snags for a distance of 30.5 meters (100 feet) surrounding the device or by landfill or other methods which meet applicable state and local fire safety, air, and water quality standards.

A burning permit shall be obtained for the use of the device pursuant to Section 4423 and all other provisions of law.

Section 4439 - Same: Open Burning.

- (a) Flammable forest product waste material may be disposed of by means of fire in an area which is cleared of grass, grain, brush, slash, litter, snags and forest cover for a distance of 121.9 meters (400 feet) from the periphery of the fire and for any greater distance necessary to provide 30.5 meters (100 feet) of cleared area around any lumber pile or structure which may be situated within 121.9 meters (400 feet) of the fire.

- (b) Sound and living trees beyond 30.5 meters (100 feet) from the periphery of the fire may be left standing within the area required to be cleared, provided the following requirements are met:
 - (1) Wildfire cannot travel into the canopy of any tree left standing.
 - (2) Any tree left standing does not pose a fire safety threat or prevent fire equipment access to and near the flammable forest waste material.
 - (3) All dead limbs, and all limbs within 3 meters (10 feet) of the ground are removed from any tree left standing.
- (c) The disposal by fire in the cleared area is the responsibility of the operator or landowner, or of the operator and landowner, jointly, and shall be in conformance with Section 4423 and all other provisions of law.

Section 4440 Same: Accumulated Flammable Residue.

- (a) Flammable forest product residue may be accumulated in piles, within any state responsibility area, within any area receiving fire protection by the director by contract, or upon federal lands administered by the United States Department of Agriculture or the Department of Interior, when the area surrounding the piles is cleared and kept clear of all flammable vegetation and debris, including trees, snags, brush, grass, slash, and litter in accordance with one of the following procedures:
 - (1) Clearing to a distance of 45.7 meters (150 feet) from the periphery of the piles of flammable residue and all structures and lumber piles which are situated within 15.2 meters (50 feet) of the residue piles.
 - (2) Clearing to a distance of 30.5 meters (100 feet) from the periphery of the piles of flammable residue and all structures and lumber piles which are situated within 15.2 meters (50 feet) of the residue piles, and maintaining at all times a firebreak three meters (10 feet) or more in width cleared of all flammable material and constructed in a continuous line surrounding the accumulation at a distance of not less than 15.2 meters (50 feet) nor more than 91.4 meters (300 feet) from the periphery of the clearing surrounding the accumulation. All snags and dead trees between the firebreak and the periphery of the clearing shall be felled.
 - (3) Sound and living trees may be left standing within the areas required to be cleared of flammable residue, provided the following requirements are met:
 - (A) Wildfire cannot travel into the canopy of any tree left standing.
 - (B) Any tree left standing does not pose a fire safety threat or prevent fire equipment access to and near the flammable forest waste material.
 - (C) All dead limbs, and all limbs within 3 meters (10 feet) of the ground are removed from any tree left standing.
 - (D) Diseased or dead trees are removed entirely.
- (b) Disposal by fire, if contemplated, is a responsibility of the operator or landowner or the operator and landowner, jointly, and shall be accomplished in conformance with Section 4423 and all other applicable provisions of law.

Section 4441 - Same: Penalty for Failure to Dispose of Accumulated Waste.

Any person who permits or allows accumulation of waste material or residue in violation of the provisions of Sections 4437 to 4440, inclusive, is guilty of a misdemeanor and shall be punished for a first conviction,

by a fine not to exceed two hundred fifty dollars (\$250), and, for a second or subsequent conviction within five years of a prior conviction of a violation of one of those provisions, by a fine not less than two hundred fifty dollars (\$250) or more than one thousand dollars (\$1,000) or imprisonment in the county jail for a period not to exceed 30 days, or both that fine and imprisonment. Each and every day of violation is a separate and distinct offense.

Section 4442 - Using Equipment Without Spark Arrester.

- (a) Except as otherwise provided in this section, no person shall use, operate, or allow to be used or operated, any internal combustion engine which uses hydrocarbon fuels on any forest-covered land, brush-covered land, or grass-covered land unless the engine is equipped with a spark arrester, as defined in subdivision (c), maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.
- (b) Spark arresters affixed to the exhaust system of engines or vehicles subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.
- (c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine that uses hydrocarbon fuels or which is qualified and rated by the United States Forest Service.
- (d) Engines used to provide motive power for trucks, truck tractors, buses, and passenger vehicles, except motorcycles, are not subject to this section if the exhaust system is equipped with a muffler as defined in the Vehicle Code.
- (e) Turbocharged engines are not subject to this section if all exhausted gases pass through the rotating turbine wheel, there is no exhaust bypass to the atmosphere, and the turbocharger is in effective mechanical condition.
- (f) Motor vehicles when being operated in an organized racing or competitive event upon a closed course are not subject to this section if the event is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

Section 4442.5 - Spark arrester; notice to buyer or lessee of necessity of use.

No person shall sell, offer for sale, lease, or rent to any person any internal combustion engine subject to Section 4442 or 4443, and not subject to Section 13005 of the Health and Safety Code, unless the person provides a written notice to the purchaser or bailee, at the time of sale or at the time of entering into the lease or rental contract, stating that it is a violation of Section 4442 or 4443 to use or operate the engine on any forest-covered, brush-covered, or grass-covered land unless the engine is equipped with a spark arrester, as defined in Section 4442, maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.

Section 4443 - Handheld portable internal combustion engines.

No person shall use, operate, or cause to be operated on any forest-covered land, brush-covered land, or grass-covered land any handheld portable, multiposition, internal-combustion engine manufactured after June 30, 1978, which is operated on hydrocarbon fuels, unless it is constructed and equipped and maintained for the prevention of fire.

The board shall, by regulation, specify standards for construction, equipment, and maintenance of such engines for the prevention of fire and shall specify a uniform method of testing to be used by engine and

equipment manufacturers, governmental agencies, and equipment users. The regulations shall include specification of exhaust system standards for carbon particle retention or destruction, exposed surface temperature, gas temperature, flammable debris accumulation, durability, and serviceability.

Portable power saw and other portable equipment described in this section which were manufactured prior to July 1, 1978, shall be subject to fire safety design specifications as prescribed by the board.

IV. STATE REGULATIONS

TITLE 14, CALIFORNIA CODE OF REGULATIONS (14 CCR)

Section 895.1 - Definitions.

The definitions contained in the Z'berg-Nejedly Forest Practice Act of 1973 as amended (commencing with section 4511 of the Public Resources Code) shall apply to this chapter, as well as the following definitions, unless the context clearly requires otherwise. "Coastal Commission Special Treatment Area" means an identifiable and geographically bounded forest area designated within the Coastal Zone that constitutes a significant wildlife and/or plant habitat area, area of special scenic significance, and any land where timber operations could adversely affect public recreation areas or the biological productivity of any wetland, estuary, or stream especially valuable because of its role in a coastal ecosystem. "Fire Protection Zone" means that portion of the logging area within 100 feet (30.48 m), as measured along the surface of the ground, from the edge of the traveled surface of all public roads and railroads; and 50 feet (15.24 m) as measured along the surface of the ground from the traveled surface of all private roads, and within 100 feet (30.48 m), as measured along the surface of the ground, from permanently located structures currently maintained for human habitation. "Logging Area" means that area on which timber operations are being conducted as shown on the map accompanying the Timber Harvesting Plan, and within 100 feet (30.48 m) as measured on the surface of the ground, from the edge of the traveled surface of appurtenant roads owned or controlled by the timber operator or timber owner, and being used during the harvesting of the particular area. "Lopping" means severing and spreading of slash so that no part of it remains more than 30 inches (76.2 cm) above the ground. "Skidding or Yarding" means that movement of forest products from the point of felling to a landing. "Tractor roads" means constructed trails or established paths used by tractors or other vehicles for skidding logs. Also known as "skid trails".

Section 918 - Fire Protection.

When burning permits are required by Public Resources Code 4423, timber operators shall: (a) observe the fire prevention and control rules within this article, and (b) submit each year, either before April 1st or before the start of timber operations a fire suppression resources inventory to the Department as required by the rules.

Section 918.1 - Fire Suppression Resource Inventory.

The Fire Suppression Resources Inventory shall include, as a minimum, the following information:

- (a) Name, address and 24-hour telephone number of an individual and an alternate who has authority to respond to Department requests for resources to suppress fires.
- (b) Number of individuals available for fire fighting duty and their skills.
- (c) Equipment available for fire fighting.

The Fire Suppression Resource Inventory shall be submitted to the ranger unit headquarters office of the Department having jurisdiction for the timber operation.

Section 918.2 - Fire Plan Contents.

Timber operators' written fire prevention and fire control plan shall include, but not be limited to, the

following information:

- (a) The name, address, and 24-hour telephone number(s) of responsible persons who have authority to act for the operator in fire suppression operations.
- (b) Location and number of persons available for firefighting duty.
- (c) Kind, type and location of tools and equipment, including bulldozers, and water tank trucks suitable and available for firefighting purposes.
- (d) The fire plan shall set forth the general procedure which will be followed for the detection, control, and suppression of uncontrolled fires.
- (e) Sketch map and land subdivision description of logging areas upon which timber operations may currently be conducted or are anticipated will be conducted during the ensuing forest fire season.
- (f) Detailed provisions for inspection following cessation of felling, skidding, and loading operations as required in Section 918.8.

Section 918.3 - Roads to be Kept Passable.

Timber operators shall keep all logging Truck roads in a passable condition during the dry season for fire truck travel until snag and slash disposal have been completed.

Section 918.4 - Smoking and Matches.

Subject to any law or ordinance prohibiting or otherwise regulating smoking, smoking by persons engaged in timber operations shall be limited to occasions where they are not moving about and are confined to cleared landings and areas of bare soil at least three feet (.914 m) in diameter. Burning material shall be extinguished in such areas of bare soil before discarding. The timber operator shall specify procedures to guide actions of his employees or other persons in his employment consistent with this subsection.

Section 918.5 - Lunch and Warming Fires.

Subject to any law or ordinance regulating or prohibiting fires, warming fires or other fires used for the comfort or convenience of employees or other persons engaged in timber operations shall be limited to the following conditions:

1. There shall be a clearance of 10 feet (3.05 m) or more from the perimeter of such fires of flammable vegetation or other substances conducive to the spread of fire.
2. Warming fires shall be built in a depression in the soil to hold the ash created by such fires.
3. The timber operator shall establish procedures to guide actions of his employees or other persons in their employment regarding the setting, maintenance, or use of such fires that are consistent with (a) and (b) of this subsection.

Section 918.6 - Posting Procedures.

Timber operators shall post notices which set forth lists of procedures that have established consistent with Sections 918.4 and 918.5. Such notices shall be posted in sufficient quantity and location throughout their logging areas so that all employees, or other persons employed by them to work, shall be informed of such procedures. Timber operators shall provide for diligent supervision of such procedures throughout their operations.

Section 918.7 - Blasting and Welding.

Timber operators shall provide for a diligent fire watch service at the scene of any blasting or welding

operations conducted on their logging areas to prevent and extinguish fires resulting from such operations.

Section 918.8 - Inspection for Fire.

The timber operator and his/her agent shall conduct a diligent aerial or ground inspection within the first two hours after cessation of felling, yarding, or loading operations each day during the dry period when fire is likely to spread. The person conducting the inspection shall have adequate communication available for prompt reporting of any fire that may be detected.

Section 918.10 - Cable Blocks.

During the period when burning permits are required, all tail and side blocks on a cable setting shall be located in the center of an area that is either cleared to mineral soil or covered with a fireproof blanket that is at least 15 feet in diameter. A shovel and an operational full five-gallon back pump or fire extinguisher bearing a label showing at least a 4A rating must be located within 25 feet of each such block before yarding.

Note: The above regulations are for the Coast Forest District. Slightly different but very similar regulations apply to the Northern and Southern Forest Districts.

Section 1230 - Purpose.

These regulations have been prepared and adopted for the purpose of establishing minimum standards respecting the type and size of fire extinguisher necessary to provide at least minimum assurance of controlling fire caused by use of a portable saw or tool powered by a gasoline fueled internal combustion engine.

Section 1233 - Effectiveness Evaluation.

Only fire extinguishers which meet each of the following requirements will be approved by the Director.

- (a) An extinguisher must completely extinguish both Class A and Class B fires in each type of fuel bed in each test.
- (b) Operating instructions must be plainly printed on the extinguisher; and the average user must be able to operate the extinguisher within 5 seconds after having it in hand.
- (c) Extinguisher must be portable, provided with belt carriers or be equipped with hangers which will adequately serve as belt loops for carrying on the person. Gross weight of a fully loaded extinguisher shall not exceed 2 pounds 8 ounces (1.134 kg).

Section 1240 - Multiposition Small Engine, Defined.

Multiposition small engine (MSE) means-any internal combustion engine operated on hydrocarbon fuels that normally is handheld when operated by one or more persons, which can and may be operated in any position, including but not limited to inverted and includes all of the engines to which the provisions of PRC 4443 are applicable.

Section 1241 - Minimum Performance Standards for Multiposition Small Engine Exhaust System Fire Ignition Suppression for Engines Manufactured after June 30, 1978.

The following minimum performance standards for MSE. exhaust systems are established to prevent the ignition of fire in organic fuels consisting of, or developed from forest, brush or grass vegetation.

- (a) Carbon Particle Retention or Destruction. Each MSE. exhaust system or a spark arrester used in or with such exhaust system shall be designed to retain or destroy 90% or more of the carbon particles having a major diameter greater than 0.023 in.

- (0.584 mm) as determined when tested in accordance with the provisions of part 3 of the Society of Automotive Engineers (SAE) Recommended Practice J335 (b) .
- (b) Exposed Surface Temperature. The MSE. exhaust system shall be designed so that the exposed surface temperature shall not exceed 550° F (288° C) as determined when tested in accordance with the provisions of part 4 of SAE Recommended Practice J335 (b).
 - (c) Exhaust Gas Temperature. The MSE. exhaust system shall be designed so that the exhaust gas temperature shall not exceed 475° (246° C) as determined when tested in accordance with the provisions of part 5 of SAE Recommended Practice J335 (b).
 - (d) Debris Accumulation. The MSE exhaust system shall be designed in such a manner that there are no pockets or corners where flammable material might accumulate. Pockets are permissible only if it can be substantiated by suitable test that material can be prevented from accumulating in the pockets.
 - (e) Durability. The MSE. exhaust system must be constructed of durable material and so designed that it will, with normal use and maintenance, provide a reasonable service life. Parts designed for easy replacement as a part of routine maintenance shall have a service life of no less than 50 hours. Cleaning of parts shall not be required more frequently than once for each 8 hours of operation.
 - (f) Serviceability. A spark arrester shall be so designed that it may be readily inspected and cleaned.

Section 1241.1 - Test Procedures for Multiposition Small Engine Exhaust System Fire Ignition Suppression for Engines Manufactured after June 30, 1978.

The exhaust system of MSE shall be tested and evaluated (qualified and rated) for compliance with the minimum performance standards established therefore, by 14 CCR 1241 by using SAE Recommended Practice J335(b) as adopted December 15, 1976. Practice J335(b) is adopted by reference as though set forth at length herein.

Section 1301 - Methods of Disposal.

Forest products waste or residue may be disposed of:

- (a) As a soil amendment layered on agricultural land, provided that, within one year of disposal, it is covered with soil or worked into the soil by plow, disc, or other means;
- (b) As a soil protection measure to be spread in forest areas on tractor roads, skid trails, and fill slopes of truck roads except where such areas are used as fuelbreaks or where the waste or residue can wash into streams during rain runoff;
- (c) By burning, where approved by air pollution control authorities and where appropriate burning permits are obtained; or

Use of waste or residue as a soil amendment or soil protection measure may occur only where the waste or residue has been converted into pieces generally smaller than two inches (five centimeters) in any dimension.

V. LOCAL ORDINANCE

It is not uncommon for counties, cities and special districts to have fire ordinances that affect industrial operations. These ordinances are too numerous and varied to list here. Knowledge of and compliance with the provisions of these ordinances is important for company and protection agency employees alike.

VI. PERMITS AND EASEMENTS

Most construction operations and many mining and drilling operations are done under terms of permits, easements or leases. Often these documents contain fire protection clauses in addition to any federal or state laws or regulations which may apply. Some of them are so old that, with changes in personnel, their provisions have been forgotten. Both fire protection agency and company managers, therefore, should review the documents periodically.

VII. CONTRACT REQUIREMENTS

Most logging, construction and drilling operations are conducted by contractors. Whether the contracted be a public agency or a private property owner the contract often contains specific fire prevention clauses the violation of which can void the contract. These contracts are usually worked out at high managerial levels and involve thousands or millions of dollars. It is, therefore, very important that contractor supervisory personnel and the owner's field inspectors be thoroughly familiar with the terms applicable to their specific contracts. Some of the most common ones are discussed briefly below but only as samples. In actual cases the specific contract clauses must be followed.

A. U. S. Forest Service Timber Sales

The U. S. Forest Service has developed a set of standard provisions for scaled timber sales. They are divided into A, B and C Divisions. Division A is for specific contract provisions; Division B establishes nationwide standards; Division C is for Regional standards. Each division is divided into parts.

Part B7 relates to Fire Precautions and Control. It contains sections on: fire plans, fire precautions, substitute precautions, emergency precautions, fire control, purchaser's reinforcement obligations, suspension of operations, manpower, equipment, fire suppression costs, operations fires, negligent fires, other fires on sale area, state law, and performance by a contractor. Part C7 for Region 5 (California and Hawaii) modifies B7 to meet local conditions. It contains sections on: fire tools and equipment, fire extinguishers, spark arresters, power saws, fire foremen and fire patrolmen, seasonal permits, blasting, time of snag felling, clearing of fuels, oil filters and glass jugs, smoking, reporting fires, tank trucks, skyline tank units, special requirements for helicopter logging, communications, activity levels, and negligence.

B. California Department Of Transportation (Caltrans)

Caltrans, with assistance from the California Department of Forestry and Fire Protection, has established a set of standard clauses for its construction contracts. Individual clauses are made parts of contracts as local conditions warrant. A given contract may contain all or only certain ones. They cover such items as establishing communications with the local fire agency, reporting fires, restricting open fires, preventing fire escapes from project area, spark arresters, clearance around equipment service and parking areas and fuel storage areas, fire tools, fire patrolman with vehicle and tools, fire indexes, curtailment of activities, smoking, blasting, and welding.

C. Private Landowners

Most large landowners, particularly timber companies, will have similar clauses in their construction, logging, drilling or service contracts. No two clauses are alike, thus it is not feasible to list them, but they are just as important and as enforceable under contract law as are those of the public agencies.