

Date: December 1, 2022

EMERGENCY SUSPENSION FOR EL DORADO COUNTY (COUNTY) TO EXPEDITE THE REMOVAL AND CLEANUP OF DEBRIS FROM WILDFIRES OR TO ADDRESS OTHER IMPACTS ASSOCIATED WITH THAT DEBRIS

BACKGROUND

On September 8, 2022, Governor Newsom proclaimed a state of emergency in the County due to the Mosquito fire(s) (Wildfire). On November 19, 2022, Governor Newsom issued an Executive Order (Executive Order) suspending state statutes, rules, regulations, and requirements that fall within the jurisdiction of boards, departments, and offices within the California Environmental Protection Agency (CalEPA) and the California Natural Resources Agency (CNRA) to the extent necessary to expedite the removal and cleanup of debris from the Wildfire or to address other impacts associated with that debris (collectively, Wildfire Recovery Activities).¹

The Executive Order authorizes individuals who desire to conduct Wildfire Recovery Activities under this suspension to request that the appropriate agency secretary, or the secretary's designee, make a determination that the proposed Wildfire Recovery Activities are eligible to be conducted under this suspension. The Secretary for CalEPA and the Secretary for CNRA must then use their sound discretion to apply the suspension to ensure that it serves the purposes of accelerating cleanup and recovery, while at the same time protecting public health and the environment.

The Executive Order requires that any Wildfire Recovery Activities performed under the suspension be in accordance with the State Environmental Protection Plan (EPP) or a comparable plan describing how such actions will balance expeditious wildfire recovery and environmental protection. The EPP (attached) was developed by, and is subject to amendment by, CalEPA, CNRA, the California Department of Fish and Wildlife (CDFW), the Governor's Office of Emergency Services (CalOES), the State Water Resources

¹ In addition, the Executive Order suspends these laws to the extent necessary to implement any restoration plan or to conduct other wildfire recovery activities. Restoration work and other wildfire recovery activities are beyond the scope of the present suspension, which concerns only debris removal and cleanup, including the removal of fire-damaged hazard trees. If the County wishes for CNRA to apply the Executive Order's suspension for restoration work and other wildfire recovery activities, it must submit a separate request for such an application.

Control Board and Regional Water Quality Control Boards, the Department of Forestry and Fire Protection (CAL FIRE), and California Department of Resources Recycling and Recovery (CalRecycle). It is based upon the view that each agency providing disaster recovery services has a responsibility to ensure its activities comply with applicable federal and state environmental laws. It specifies methods intended to allow the Wildfire Recovery Activities to continue without delay while still preserving the intent of the suspended laws and protecting the environment.

COUNTY'S REQUEST FOR SUSPENSION – WILDLIFE

The County has consulted with CalOES and CalRecycle about the Wildfire Recovery Activities. It is now requesting that the CNRA Secretary apply the suspension authorized by the Executive Order to expedite those Wildfire Recovery Activities. If granted, the suspension would relieve the County and its contractors, when engaging in Wildfire Recovery Activities, of compliance with the following laws within the jurisdiction of CNRA and CDFW:

1. California Fish and Game Code (FGC) § 86 where "Take" shall be avoided. Take is defined as to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.
2. FGC § 1600 (et seq.); Lake or Streambed Alteration Agreement, notification of significant alteration to stream channel, bank, or bed.
3. FGC § 1900 (et seq.); Native Plant Protection Act.
4. FGC § 2000; Taking is unlawful except as provided.
5. FGC § 3503 and § 3503.5; Protection for bird nests and eggs and birds of prey.
6. FGC § 3511; California Fully Protected Birds.
7. FGC § 3513; California Migratory Bird Protection Act.
8. FGC § 4700; California Fully Protected Mammals.
9. FGC § 5050; California Fully Protected Reptiles and Amphibians.
10. FGC § 5515; California Fully Protected Fish.
11. FGC § 5650 and § 5652; Deposition of deleterious material into waters of the state.
12. FGC § 5901; Fish passage.
13. FGC § 5937; Sufficient water for fish.
14. FGC § 5948; Obstruction of streams.
15. California Endangered Species Act, FGC § 2050-2115.5; Prohibition of the take of any species of wildlife designated as endangered, threatened, or candidates for listing.

Suspension Requested by:

Jeffrey
Warren, REHS

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Warren, REHS
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Name Jeffrey Warren, Title Director

COUNTY'S REQUEST FOR SUSPENSION – FOREST PRACTICE COMPLIANCE MEASURES

This request incorporates by reference the qualifications included in the above request regarding wildlife. It requests the suspension of the regulatory provisions below to the extent they are applicable to parcels included in the Wildfire Recovery Activities within CAL FIRE's jurisdiction:

1. 14 CCR §§ 916.1, 936.1, and 956.1; requirements – for the Coast Forest District, Northern Forest District, and Southern Forest District, respectively – that in lieu practices be included within a timber harvest plan.
2. 14 CCR § 1104.1(h); prohibition on the use of in-lieu practices, exceptions, and alternatives for conversion exemptions.

In conducting the Wildfire Recovery Activities under this suspension, the County and its contractors will comply with the EPP

Suspension Requested by:

Jeffrey Warren,
REHS

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Warren, REHS
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Name Jeffrey Warren, Title Director

CNRA'S AUTHORIZATION

I am in receipt of the County's request for a suspension in accordance with the Executive Order. I find that the requested suspension is necessary to ease otherwise applicable procedural requirements, including notice and fee provisions that would delay the Wildfire Recovery Activities. Therefore, in the exercise of my discretion under the Executive Order, I hereby authorize the suspension of the laws described in the request.

To facilitate the County's Wildfire Recovery Activities, I also hereby direct the departments within CNRA to exercise their administrative discretion and expedite the granting of other authorizations, waivers or permits necessary for the removal, storage, transportation and disposal of hazardous and non-hazardous structural debris resulting from the fires, and for other actions necessary for the protection of public health and the environment in the County.

The suspension is only valid to the extent the County complies with the EPP and the forest practices protocol described above.

The County must ensure that CDFW and CAL FIRE staff will have the opportunity to inspect operations and verify proper implementation of these actions. Failure to comply with the EPP, and with any applicable federal and non-suspended state and local environmental laws and regulations, may result in an enforcement action by CalEPA departments and/or CNRA departments.

Attachment: 2022 Statewide Fires –Environmental Protection Plan

Suspension Approved by:

Wade
Crowfoot

Digitally signed by Wade
Crowfoot
Date: 2022.12.09
13:33:15 -08'00'

Wade Crowfoot, Secretary
California Natural Resources Agency