

CALIFORNIA COASTAL COMMISSION

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LCP Update Guide

Section 11. Timberlands

Forests containing timber resources are prevalent in parts of the rural coastal zone. The long-term productivity of timberlands is to be protected under the Coastal Act. Land divisions of timberlands into parcel sizes that are not economically viable should not be approved.

Updating the LCP offers an opportunity to undertake a current inventory of timber resources and to research what is an economically viable parcel size in your county. If necessary, land use designations and densities and development standards can then be revised to maintain consistency with Coastal Act policies. You can also ensure that provisions related to timber harvest are consistent with recent legal decisions on the subject.

For Coastal Act policy regarding timberlands, -- Please see Section 30243, at: <http://www.coastal.ca.gov/coactact.pdf>

See Guide to the Forest Practice Act and Related Laws: Regulation of Timber Harvesting on Private Lands in California, (Sharon E. Duggan and Tara Mueller. Solano Press 2005) for a comprehensive discussion of state law on timber harvesting, at: http://www.solano.com/pdf/FP_contents_preface.pdf

What should an updated Timberlands component include?

- Inventory of commercial timber species;
- Land use and zoning designations to allow for timber harvesting in appropriate locations;
- Land use and zoning designations that do not allow for conversion of commercial timberlands to other uses;
- Land use intensities and corresponding zoning district regulations that ensure minimum parcel sizes in timberlands that are economically viable;
- Land use and zoning locations, permitted uses and regulations that allow for adequate support facilities for any permitted timber harvesting;
- Land use and zoning measures that do not preempt State regulation of timber harvesting by the Department of Forestry and Fire Protection;
- Procedures for coordinating with State timber harvest reviews;
- Land use and zoning regulations that address timber harvesting and other tree cutting that is not covered by other state law (see Section 4 Environmentally Sensitive Habitats and Other Natural Resources).

Where can I read some examples of updated timberland sections?

Santa Cruz County updated its timber harvest provisions to be in compliance with the California Supreme Court decision *Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal. 4th 1139:

- ❑ **Santa Cruz County LCP Amendment No. SCO-MAJ-1-07 Part 1 (Timber Production Zones)**, at:
<http://documents.coastal.ca.gov/reports/2007/6/W13a-6-2007.pdf>

What are some issues to address in an LCP update of timberland policies?

An LCP update should result in clarity as to where timber harvesting is allowed and where it is prohibited based on a current inventory of timberlands. The update can also ensure that other allowed uses in and adjacent to timberlands are compatible with, and supportive of, any allowable timber harvesting. An LCP update offers the opportunity to establish policies and procedures for participating in State timber harvest reviews. For any allowed timber harvesting that is not regulated by the State, an LCP update should ensure that the activity is permitted consistent with other LCP policies that carry out the Coastal Act (see Section 4 Environmentally Sensitive Habitats (ESHA) and Other Natural Resources).

◆ Timber Harvest Locations

Updating your LCP offers a chance to review the current location of any timberlands and whether they are designated appropriately in your land use plan and zoning ordinance.

Under the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976 and the subsequent California Timberland Productivity Act of 1982, identified timberlands must be zoned TPZ (Timberland Production Zone). Therefore, the TPZ district regulations and zoning map locations will be part of your coastal implementation plan. Correspondingly, your coastal land use plan should have a land use designation or designations where timber harvesting is allowed in order for the TPZ zoning to be consistent with and adequate to carry out the land use plan.

If a landowner requests TPZ zoning for any non-TPZ zoned land, and it meets the criteria for commercial timberlands, then the rezoning process would occur pursuant to Government Code § 51113. You can specify a minimum parcel size to be eligible for a rezoning to TPZ:

- ❑ **Santa Cruz County LCP Major Amendment Number 1-08 Part 2 (Minimum Parcel Size in Timber Production Zoning District)**, at:

*Please see
California Timberland
Productivity Act of 1982,
at:
<http://leginfo.ca.gov/calaw.html>
ml Checkmark Government
Code and search for "51100"*

<http://documents.coastal.ca.gov/reports/2008/11/W11e-11-2008.pdf>

Although it is highly desirable for you to amend your LCP to show any zoning changes to TPZ so that the LCP zoning maps remain current, the court ruled in the *Big Creek* decision that this is not mandatory.

If a current inventory reveals additional timberlands beyond those zoned for or eligible for TPZ, additional steps can be taken. You can first make a determination whether the lands are suitable for harvesting and, if so, you can then determine an appropriate land use designation for the lands. While your LCP could allow for timber harvesting in a district other than TPZ, this is not mandatory. A landowner always has the option of requesting a rezoning to TPZ in order to pursue the right to harvest defined commercial timber on his/her property under established procedures. The California Supreme Court in *Big Creek* ruled that local government retains the authority to establish the land use designations and zoning districts in which timber harvesting is allowed.

An LUP update can evaluate whether to allow (or retain allowance for) timber harvesting in any land use designations and zoning districts other than TPZs. This evaluation should consider, from a Coastal Act perspective, all potential impacts that might be caused by harvesting, although the harvesting itself will be regulated by the California Department of Forestry and Fire Protection (CALFIRE). Impacts on any adjacent non-forested lands are important to address, especially if the adjacent lands are designated for uses and resources protected as priorities under the Coastal Act, including agricultural lands, environmentally sensitive habitat area or visitor-serving uses. For example, timber harvesting operations could disrupt adjacent farming operations because of increased equipment transportation. Timber harvesting that increases erosion and noise may also impact adjacent ESHA or discourage visitor use.

Please see details of
**CALFIRE's review
process for timber
operation applications,**
at:

http://www.fire.ca.gov/resource_mgt/resource_mgt_forestpractice_thpreviewprocess.php for.

◆ **Compatible and Supporting Uses**

In updating your LCP, you should also review whether other uses allowed in or near timberlands are compatible with harvesting and whether facilities to support the timber harvesting are adequately provided for in the LUP.

Under the Coastal Act, the long-term productivity of timberlands shall be protected and conversion of commercially viable stands of timberland shall not occur (except for necessary timber processing and related facilities). Thus, your LCP should contain policies to reflect these mandates. Related, under the California Timberland Productivity Act, any other allowable uses in the TPZ district must be compatible with timber harvesting. Thus, in the TPZ district other uses should be limited to those that will not impinge on and that can co-exist with timbering activities

such as the operation of heavy equipment (and its resultant noise and traffic). Some uses could be considered compatible if they were restricted to times when harvesting was not occurring, such as recreation. For both the TPZ district and any non-TPZ districts where timber harvesting is permitted other allowable uses should be governed by siting and design criteria to assure that the timberlands remain intact and harvestable. For example, approval of other uses should not preclude logging equipment storage or access to timberlands. Residences in or adjacent to timberlands can be buffered from timberlands. An example of a provision for a buffer zone between legal residences and commercial timber harvest operations is:

- **San Mateo County Implementation Plan Major Amendment No. 2-00 Timber Harvest Buffer**, at:
<http://www.coastal.ca.gov/nca/lcpa-smc-2-00.pdf>

This ordinance was upheld in *Big Creek Lumber v. County of San Mateo (1995) 31 Cal. App. 4th 418*. Under Government Code § 51119.5, the minimum parcel size that TPZ lands can be divided into is 160 acres. If your jurisdiction allows for timber harvesting in non-TPZ districts that have other allowed uses (e.g., single family residences), then consider policies defining minimum parcel sizes to ensure that timberlands do not become rural residential enclaves where viability of timber harvesting becomes problematic. The following includes a comparison of minimum parcel sizes for timber production for various counties:

- County of Santa Cruz Planning Department, **Minimum Parcel Size to Qualify for TP Zoning**, Figure 2, at:
http://sccounty01.co.santa-cruz.ca.us/bds/Govstream/BDSvData/non_legacy/agendas/2007/20070424/PDF/032.pdf

Land use designations and zoning districts should also provide for appropriate support facilities for any timber harvesting that is allowed. These could include helicopter pads, storage areas or sawmills. Often these uses would be appropriately located within timber harvest districts. In other cases, these uses may be more appropriately located in accessible commercial and industrial areas, depending on available utilities, transportation corridors and public services. Not every possible support facility needs to be accommodated within the coastal zone, provided that restrictions do not result in the inability to harvest timber that otherwise would be permissible to harvest under the Forest Practices Act. Any such restrictions should be based on consistency with Coastal Act policies (e.g., requirements to site a sawmill to avoid environmentally sensitive habitat areas) and the consideration of other available alternatives for transporting and processing timber.

Please see
**Z'berg-Nejedly Forest
Practice Act of 1973**
(Chapter 8 of Part 2 of
Division 4 of the Public
Resources Code, commencing
with Section 4511), at:
<http://leginfo.ca.gov/calaw.html>
Checkmark Public
Resources Code and search for
"4511"

**Coastal Act
considerations have
been incorporated into
the Forest Practices Act
rules** for certain special
treatment areas. Descriptions of
these areas and their rules can
be found in Title 14,
California Code of
Regulations, Chapter 4,
Subchapters 4, 5 & 6 Forest
District Rules. Article 11
Coastal Commission Special
Treatment Areas, at:
http://www.fire.ca.gov/resource_mgmt/downloads/2007FPRulebook_wDiagrams.pdf#page2
or at:
<http://ccr.oal.ca.gov/linkedslide/default.asp?SP=CCR-1000&Action=Welcome>.

◆ Timber Harvest Reviews

Under the Coastal Act, timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 do not require a coastal development permit (see sidebar and Coastal Act Section 30106). Thus, it is not necessary for an LCP to contain policies that govern these timber harvests, as such provisions could not be implemented through any local discretionary action. However, local governments are typically invited to participate in review teams that undertake Pre-Harvest Inspections of proposed logging sites, may submit comments on proposed timber harvest plans to the CALFIRE director, and may request that a public hearing on a timber harvest application be conducted. Therefore, your LCP could contain policies that guide your participation in CALFIRE's process, as long as they are clearly described as advisory. They cannot confer regulatory authority on timber harvests.

Likewise, you can institute procedures to formalize your city's or county's participation in timber harvest plan consultations addressing such matters as:

- How and when local input is gathered and submitted;
- Criteria for deciding when to participate in the timber review teams;
- Who is authorized to be a team member and to comment on your jurisdiction's behalf;
- How and when you might request a public hearing; and,
- How you would coordinate with the Coastal Commission as to the Commission's comments and participation on the timber review teams.