

Board of Forestry and Fire Protection

OAK WOODLAND MANAGEMENT AND FOREST FIRE PREVENTION PILOT PROJECT

EXEMPTION, 2017

Title 14 of the California Code of Regulations (14 CCR),

Division 1.5, Chapter 4, Subchapter 1, Article 1 and Subchapter 7, Article 2

December 7, 2016

Amend:

§ 1038 Exemption

Persons who conduct the following types of Timber Operations are exempt from the plan preparation and submission requirements (PRC § 4581) and from the completion report and stocking report requirements (PRC §§ 4585 and 4587) of the FPA with the following exceptions and requirements:

(i) no tree that existed before 1800 A.D., and is greater than sixty (60) inches in diameter at stump height for Sierra or Coastal Redwoods, and forty-eight (48) inches in diameter at stump height for all other tree species shall be harvested unless done so under the conditions or criteria set forth in subsection 1038(h).

(ii) all timber operations conducted in the Lake Tahoe Region pursuant to 14 CCR § 1038 must have a valid Tahoe Basin Tree Removal Permit (as defined by the Tahoe Regional Planning Agency) or shall be conducted under a valid TRPA Memorandum of Understanding (MOU), when such a permit is required by TRPA.

(j) The harvesting of trees in compliance with PRC § 4584(j)(11), Forest Fire Prevention Exemption Pilot Project, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing

the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, when the following conditions are met:

(8) Only trees less than ~~24~~ twenty six (26) inches outside bark stump diameter, measured at eight inches above ground level, may be removed.

Comment [A1]: BEGGINING OF REVISED REGULATORY TEXT FOR THE FFPPP PRC 4584(j)(11)(B)

(15) This exemption can be used in the following geographic locations: the counties of Del Norte, Humboldt, Mendocino, Modoc, Siskiyou, Sonoma, Trinity, and the Sierra Nevada Region. Sierra Nevada Region means the area lying within the Counties of Alpine, Amador, Butte, Calaveras, El Dorado, Fresno, Inyo, Kern, Lassen, Madera, Mariposa, Modoc, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Tehama, Tulare, Tuolumne, and Yuba, ~~described as the area bounded as follows:~~

~~On the east by the eastern boundary of the State of California; the crest of the White/Inyo ranges; and State Routes 395 and 14 south of Olancha; on the south by State Route 58, Tehachapi Creek, and Caliente Creek; on the west by the line of 1,250 feet above sea level from Caliente Creek to the Kern/Tulare County line; the lower level of the western slope's blue oak woodland, from the Kern/Tulare County line to the Sacramento River near the mouth of Seven-Mile Creek north of Red Bluff; the Sacramento River from Seven-Mile Creek north to Cow Creek below Redding; Cow Creek, Little Cow Creek, Dry Creek, and the Shasta National Forest portion of Bear Mountain Road, between the Sacramento River and Shasta Lake; the Pit River Arm of Shasta Lake; the northerly boundary of the Pit River watershed; the southerly and easterly boundaries of Siskiyou County; and within Modoc County, the easterly boundary of the Klamath River watershed; and on the north by the northern boundary of the State of California; excluding the Lake Tahoe Region. Lake Tahoe Region means: That part of Lake Tahoe within the jurisdiction of the State of California, the adjacent parts of the Counties of El Dorado and Placer lying within the Tahoe Basin in the State~~

of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, MDB&M. The Lake Tahoe region is defined on the official maps of the Tahoe Conservancy.

(18) Timber operations shall comply with the limits established in 14 CCR § 1038, subsections (b) (1) through (10). Timber operations in the Lake Tahoe Region shall comply with the requirements of paragraphs (1) to (16), inclusive of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(4819) 14 CCR § 1038(j) shall expire on January 1, 20182021.

(l) The cutting or removal of trees to restore and conserve California black or Oregon white oak woodlands and associated grasslands, if all the following requirements are met:

(1) The **PLAN AREA/ LOGGING AREA/HARVEST AREA** does not

exceed:

- a. Three-hundred (300) acres under the ownership of the timberland owner identified pursuant to 14 CCR § 1038.2(b); or
- b. Cumulatively exceed three-hundred (300) acres of Director accepted Notice of Exemptions, pursuant to 14 CCR § 1038(l), during any five year period for the timberland owner identified pursuant to 14 CCR § 1038.2(b).

(2) The Notice of Exemption, described in 14 CCR § 1038.2, is

Comment [A2]: This is added because the change in geographic scope now allows this exemption to occur in the Tahoe Basin. This provision is in the original La Malfa (1038)(i)(13), so it has been added to the Pilot Project now as well. This provision is redundant with 1038(f) and really does not need to be located within either the original LaMalfa or the Pilot Project because the intent of the regulation is fully addressed in 1038(f). This is a decision point.

Comment [A3]: BEGGINNING OF REVISED REGULATORY TEXT FOR THE OAK WOODLAND EXEMPTION PRC 4584(k)

Comment [A4]: PRC 4584 (k)(4)

This is a decision point. Select one term. Logging and Harvest Area are both defined. Plean Area is not. Logging area is a required mapping standard for this exemption per 4584(1)(A)

Comment [A5]: PRC 4584(k)(1)

prepared, signed and submitted by a RPF to the Director. The RPF shall provide their current address and telephone number on the form.

(3) The RPF preparing the Notice of Exemption shall, upon submission of the Notice of Exemption, include:

- A. A map of the area of timber operations that complies with 14 CCR § 1034(x)(1), (3), (4), (7), (11) and (14).
- B. A description of the preharvest stand structure and statement of the postharvest stand stocking levels.
- C. A certification that states:
 - 1. that a minimum of thirty-five (35) square feet of basal area per acre of California black or Oregon white oak, or both, occupy **THE AREA WITHIN THE NOTICE OF EXEMPTION/PLAN AREA/EXEMPTION AREA** prior to timber operations occurring; and
 - 2. that the proposed timber operations are designed to restore and conserve California black oak and Oregon white oak and associated grasslands.
- (A) Confidential archaeological information pursuant to 14 CCR § 929.1(c)(2) and (7) –(11) [949.1(c)(2) and (7) –(11), 969.1(c)(2) and (7) –(11)], including site records, if require pursuant to 14 CCR § 929.1(g) or 14 CCR § 929.5(g).
- (B) The RPF shall, upon submission of the Notice of Exemption, provide a Confidential Archaeological Letter, as defined in 14 CCR § 895.1, which contains all the information required for plans and Emergency Notices with the exception that the information required in 14 CCR § 929.1(c)(3) [949.1(c)(3), 969.1(c)(3)] shall not be required. The Director

Comment [A6]: PRC 4584(1)(A)

Comment [A7]: PRC 4584(k)(1)(C)

Comment [A8]: PRC 4584(k)(1)(B)

Comment [A9]: Decision point Select a term or use a different term.

Comment [A10]: PRC 4584(k)(7) Pg 91 This does not seem to match the definition of the Con Arch Letter in 895.1 or standards for the LaMafa 1038(i)(7). Decision point...select A or B with A being the language from PRC 4584(k)(7) while B is the existing language fro the La Malfa.

shall submit a complete copy of the Confidential Archaeological Letter, and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System, within 30 days from the date of Notice of Exemption submittal to the Director. Before submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of Exemption to Native Americans defined in 14 CCR § 895.1.

(4) No trees larger than twenty-six (26) inches outside bark stump diameter, measured eight (8) inches above ground level may be removed for commercial purposes.

Comment [A11]: PRC 4584(k)(2)

(5) The postharvest stand shall meet, at a minimum, the following criteria:

- a. A maximum of twenty (20) percent of the pretreatment basal area of California black oak or Oregon white oak , or both, shall be retained; and
- b. A minimum of thirty-five (35) square feet of basal area of California black oak or Oregon white oak , or both, shall be retained; and
- c. Conifer stocking shall represent less than twenty five (25) percent of the total onsite stocking of all trees within the area of operations.
- d. All harvested conifers shall be within three hundred (300) of a California black oak or Oregon white oak that is a minimum of four (4) inches dbh.
- e. All Slash created by the Timber Operations shall be treated to achieve a maximum postharvest depth of eighteen (18) inches above the ground within twenty four (24) months of the date that the director

Comment [A12]: PRC 4584(k)(6)

Comment [A13]: PRC 4584(k)(6)

Comment [A14]: PRC 4584(k)(5)

Comment [A15]: PRC 4584(k)(3)

Comment [A16]: PRC 4584(k)(8)

received the submitted notice. Treated Slash shall be configured in a manner that minimizes risk of fire related mortality to all retained California black oak or Oregon white oak.

Comment [A17]: Option to provide additional clarity or enforceable standard. For examples see: 923.4(i) page 128 FPRs 1038(i)(10)(B)(III) page 198 FPRs 1052.4(d)(5)(B)1. Page 212 FPRs

(6) Timber operations shall comply with the limits established in 14 CCR § 1038, subsection (b)(1) –(10).

Comment [A18]: PRC 4584(k)(9)

(7) An exemption pursuant to 14 CCR § 1038(l) is not application to timberlands within the Southern Sub-District of the Coast District as defined in 14 CCR § 895.1. or the Southern District as defined in 14 CCR § 909.

Comment [A19]: 4584(k)(11)

(8) 1038(l) shall become inoperative on January 1, 2024.

*****Note: Authority cited: Sections 4551, 4553, 4584 and 4584.1, Public Resources Code. Reference: Sections 4290, 4291, 4516, 4527, 4584, and 4584.1, Public Resources Code; and *EPIC v. California Department of Forestry and Fire Protection and Board of Forestry* (1996) 43 Cal. App.4th 1011. *****

Note: Authority cited: Sections 4551, 4553 and 4584, Public Resources Code. Reference: Sections 4527 and 4584, Public Resources Code.

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