**Board of Forestry and Fire Protection**

**Forest Fire Prevention Exemption Amendments
Title 14 of the California Code of Regulations**

**Division 1.5, Chapter 4,**

**Subchapter 7**

 **§ 1038.3. Forest Fire Prevention Exemption.**

Persons who are engaged in the cutting or removal of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials to reduce fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns 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. Timber Operations conducted under any notice of exemption described herein shall be limited to one (1) year from the date of receipt by the Director, and shall comply with all operational provisions of the FPA and District Forest Practices Rules applicable to “Timber Harvest Plan”, “THP”, and “Plan” definitions per 14 CCR § 895.1. This exemption shall be known as the Forest Fire Prevention Exemption. Preparation and submittal of notices of exemption under this section, or Timber Operations conducted thereunder, shall comply with the following conditions, exceptions, or requirements as described.

(a) Comply with the requirements of Title 14 CCR §§ 1038.1(c)(5), (6), (7), and (9) through (12) inclusive.

(b) This exemption shall only be used on Timberlands that are within the most recent version of the Department's Fire Hazard Severity Zone Map, which can be found on the Department's website: https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/, that shows the exemption will occur in areas determined to be moderate, high, or very high fire threat areas.

(c) The Harvest Area shall not exceed three hundred (300) acres.

(d) (1) Slash and Woody Debris shall be treated to achieve a maximum post-harvest depth of eighteen (18) inches above the ground except within one hundred fifty (150) feet from any point of an approved and legally permitted structure that complies with the California Standards Building Code.

(2) All surface fuels within one-hundred-fifty (150) feet of an Approved and Legally Permitted Structure, which could promote the spread of wildfire, shall be chipped, burned, or removed within forty-five (45) days from the start of Timber Operations.

(3) All fuel treatments shall be completed within one (1) year from the date the Director receives the notice. This requirement does not apply to burning, which instead shall be completed within two (2) years from the date the Director receives the notice.

(4) The requirements of this subsection shall not supersede the requirements of PRC § 4291.

(e) The construction or reconstruction of roads, other than Temporary Roads, is prohibited. The construction or reconstruction of Temporary Roads on slopes greater than thirty (30) percent is prohibited. The construction or reconstruction of Temporary Roads on slopes of thirty (30) percent or less shall be allowed if all of the following conditions are met:

(1) Temporary Roads or Landings shall not be located on Unstable Areas.

(2) Temporary Roads shall be single lane in width.

(3) Temporary Roads shall not be located across a Connected Headwall Swale.

(4) Construction or re-construction of Temporary Roads, Landings or Watercourse crossings shall not occur during the Winter Period.

(A) Roads and Landings used for log hauling or other heavy equipment uses during the Winter Period shall occur on a Stable Operating Surface and, if necessary, be surfaced with rock to a depth and quantity sufficient to maintain a Stable Operating Surface. No operation shall be permitted on roads that are not subject to Hydrological Disconnection, or which exhibit Saturated Soil Conditions.

(B) Timber Operations during the Winter Period shall comply with the applicable Rule sections under 14 CCR § 914.7 [934.7, 954.7](c)(1)&(2).

(C) Use of Temporary Roads shall comply with the operational provisions of 14 CCR § 923 [943, 963] et seq.,

(D) No Logging Road or Landings construction, or reconstruction, activities shall occur within two-hundred (200) feet of Class I and Class II Watercourses, or within fifty (50) feet of a Class III Watercourse.

(5) Temporary Road construction or reconstruction, shall be limited to no more than two (2) miles of road per ownership within a single Planning Watershed (CALWATER 2.2) per any five (5) year period.

(A) For exemptions that are less than forty (40) acres, all Temporary Roads constructed and/or reconstructed shall not exceed a cumulative length of three-hundred (300) feet.

(B) For exemptions between forty (40) and eighty (80) acres, this standard shall not exceed three-hundred (300) to six-hundred (600) feet, as determined on a pro rata basis by total acreage affected by the exemption.

(C) For exemptions over eighty (80) acres, this standard shall not exceed six-hundred (600) feet.

(D) Temporary Roads constructed or reconstructed under this section shall not be connected to other Temporary Roads constructed under previous or subsequent exemptions filed pursuant to this section.

(E) Prior to completion of Timber Operations, all Temporary Roads constructed or reconstructed under this section shall undergo Abandonment in a manner which uses protective measures that will effectively remove them from the Permanent Road Network, as defined in 14 CCR § 895.1.

(F) No tree larger than thirty-six (36) inches in diameter at stump height, measured eight (8) inches above ground level, shall be removed for the purposes of Temporary Road construction or reconstruction as it applies to this exemption. Trees between thirty (30) and thirty-six (36) inches in diameter at stump height, measured eight (8) inches above ground level, may be removed for the purposes of Temporary Road construction or reconstruction when no other feasible option exists for Temporary Road construction activities.

(f) The RPF responsible for submission of the notice of exemption shall designate Temporary Road locations, Landing locations, Tractor Road crossings of Class III Watercourses, Unstable Areas, or Connected Headwall Swales on the ground prior to submission of the notice of exemption.

(g) The QMD of trees greater than eight (8) inches dbh in the Harvest Area shall be increased in the post-harvest stand. The submitted notice of exemption shall report the expected post-harvest increase in QMD.

(h) Except within constructed or reconstructed Temporary Road prisms, only trees less than thirty (30) inches in stump diameter, measured eight (8) inches above ground level, may be removed.

(i) All trees that are harvested or all trees that are retained shall be marked or sample marked by, or under the supervision of, an RPF before felling operations begin. Sample marking shall be limited to homogeneous forest stand conditions typical of plantations. When trees are sample marked, the prescription for unmarked areas shall be in writing and the sample mark area shall include at least ten (10) percent of the harvest area to a maximum of twenty (20) acres per stand type which is representative of the range of conditions present in the area.

(j) If the preharvest crown canopy of Dominants and Codominants is occupied by trees less than fourteen (14) inches in dbh, a minimum of one hundred (100) trees over four inches in dbh shall be retained per acre for Site I, II, and III lands, and a minimum of seventy-five (75) trees over four inches in dbh shall be retained per acre for Site IV and V lands.

(k) The following canopy, retention, and spacing standards shall be achieved on at least eighty (80) percent of the Harvest Area:

(1) Minimum post treatment Canopy closure shall comply with the standards of 14 CCR § 1052.4(d)(3)(A).

(2) Post treatment stand shall contain no more than two-hundred (200) trees per acre over three (3) inches in dbh.

(3) Vertical spacing shall be achieved by treating dead fuels, excluding dead branches on the trees retained for Stocking, to a minimum clearance distance of eight (8) feet measured from the base of the live crown of the post-harvest Dominants and Codominants to the top of the dead surface or ladder fuels, whichever is taller.

(l) Helicopter Yarding shall be prohibited.

(m) The RPF shall comply with 14 CCR § 1035.2, relating to interaction between the LTO and the RPF.

(n) All Timber Operations conducted in the Lake Tahoe Region, if applicable, must have a valid Tahoe Basin Tree Removal Permit (as defined by the TRPA) or shall be conducted under a valid TRPA Memorandum of Understanding, when such a permit is required by TRPA.

(o) Upon submission of the notice of exemption, a Confidential Archaeological Letter pursuant to 14 CCR § 929.1 [949.1; 969.1] must be provided to the Director and the RPF shall send a copy of the notice of exemption to Native Americans as defined in 14 CCR § 895.1.

(p) No Timber Operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a Significant Archaeological or Historical Site may be conducted (information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation),

(q) If a notice of exemption has been accepted by the Director and will use pesticides or herbicides on the Harvest Area within one (1) calendar year of the date of acceptance, the timberland owner shall notify the appropriate regional water quality control board within ten (10) days prior to application of pesticides or herbicides.

(r) Subsequent to the completion of Timber Operations operating under this section, the Department shall conduct an onsite inspection to determine compliance with this section. The Department shall notify the appropriate RWQCB, the CDFW, and the CGS seven (7) days prior to conducting the onsite inspection.

(s) The notice of exemption shall be prepared, signed, and submitted by an RPF. The RPF shall be retained to oversee all construction or reconstruction of Roads and/or Landings, and provide for necessary mitigation to avoid potential impacts.

(t) The notice of exemption shall be submitted to the Director, on a form provided by the Department, prior to the commencement of Timber Operations. The form shall contain the following information:

(1) Name(s), address, and telephone number(s) of the Timber Owner(s), timberland owner(s), and Timber Operator;

(2) Name, address, and telephone number and license number of the RPF preparing and submitting the notice of exemption;

(3) Legal description of the location of the Timber Operations;

(4) The tentative date of commencement of Timber Operations;

(5) A signature of the landowner certifying that they are the landowner and have read and understand the information contained within the notice of exemption;

(6) A description of preharvest stand structure; and

(7) An estimate of pre and post-harvest QMD and certification by the RPF that, in their professional judgment, post-harvest slash treatment and stand conditions will lead to more moderate fire behavior.

(u) The RPF shall, upon submission of the notice of exemption:

(1) Certify that the level of residual Stocking shall be consistent with maximum sustained production of high quality timber products. The residual stand shall consist primarily of healthy and vigorous Dominants and Codominants from the preharvest stand. Trees retained to meet the basal area stocking standards shall be selected from the largest trees available on the project area prior to harvest. In no case shall Stocking be reduced below the standards found within 14 CCR § 913.3 [933.3, 953.3] (a).

(2) Affirm that the construction or reconstruction of each Temporary Road is necessary to provide access to Harvest Areas when no other feasible alternative exists. The notice shall include the total number of and cumulative length of Temporary Roads being constructed and/or reconstructed.

(3) Provide the selection criteria for the trees to be removed or the trees to be retained. In the development of these criteria, and the fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations. The selection criteria shall specify how the trees to be removed, or how the trees to be retained, will be designated.

(v) The Director shall notify the submitter of the date of the Director's receipt of the notice of exemption. Timber Operations pursuant to the notice of exemption may not commence for ten (10) working days from the date of the Director's receipt of the notice of exemption unless the delay is waived by the Director. If the notice of exemption is not complete and accurate, the Director shall notify the submitter within five (5) working days from the date of the Director's receipt, and the Timber Operations may not commence. The Director shall determine whether the notice of exemption is complete and accurate, and if so, shall send a copy of a notice of acceptance to the submitter; provided, however, if the Director does not act within ten (10) working days of receipt of the notice of exemption, Timber Operations may commence. Timber Operations may not be conducted without a copy of the Director's notice of acceptance of the notice of exemption at the operating site, except where the Director has failed to act within the ten (10) working-day review period.

(1) Upon receipt of the submitted notice of exemption, the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the CDFW, the appropriate RWQCB, and the CGS.

(w) Before beginning Timber Operations, the RPF responsible for submittal of the notice of exemption shall notify the Department, the appropriate RWQCB, the CDFW, and the CGS of the actual commencement date of operations. The notification, by telephone, mail, or email, shall be directed to the appropriate agency personnel and contact information for the appropriate agency personnel shall be provided by the Department on the notice of exemption form. If the notification is provided by mail, Timber Operations may not commence for three (3) days after the postmark date of notification.

(x) This subsection will expire five (5) years after February 19, 2019.

NOTE: Authority cited: Sections 4551, 4553 and 4584, Public Resources Code. Reference: Sections 4527, 4527.5, 4584 and 4584.2, Public Resources Code.

**§ 1052.4. Emergency Notice for Fuel Hazard Reduction.**

The RPF preparing the Notice of Emergency Timber Operations for Fuel Hazard Reduction shall describe the nature of the Emergency and the need for immediate cutting in sufficient detail so that the reason for the Emergency is clear. Emergency Timber Operations, under the presumed Emergency standard of 14 CCR § 1052.1, may be commenced and conducted when in conformance with the following:

(a) RPF develops and documents the vegetative treatments necessary to meet the goals of 14 CCR § 1052.1(a)(5), and ensures postharvest conditions are in accordance with all subsections in 14 CCR § 1052.4. Such documentation shall include the following:

(1) A description of the preharvest stand structure, statement of the postharvest stand Stocking levels, and description of postharvest stand structure.

(2) A description of the criteria to designate trees to be harvested or trees to be retained, including those trees harvested pursuant to 14 CCR § 1052.4(d)(1)(A) and (d)(2).

(3) All trees that are harvested or all trees that are retained shall be marked or sample marked by, or under the supervision of, an RPF before felling operations begin. When trees are sample marked, the designation prescription for unmarked areas shall be in writing and the sample mark area shall include at least 10% of the Harvest Area to a maximum of twenty (20) acres per stand type which is representative of the range of conditions present in the Harvest Area.

(b) The conditions of 14 CCR §§ 1038.1(c)(5)-(14) and 1038.3(p) are applied and, for operations in the Lake Tahoe Region, 14 CCR § 1038.1(b) is applied.

(c) Geographic area: operations are permitted:

(1) Within one-quarter ( ¼ ) mile from Approved and Legally Permitted Structures that comply with the Building Standards Code (legal structure). Such legal structures shall be within or adjacent to a community listed in the “List of Communities at Risk” (As published April 13, 2019 and hereby incorporated by reference) and have densities greater than one (1) structure per twenty (20) acres; or

(2) Within five hundred (500) feet of:

(A) A legal structure outside the area defined in 14 CCR § 1052.4(c)(1); or

(B) Either side of a federal or Public Road; or

(C) Either side of a private road providing access to legal structures; or

(D) Either side of haul roads suitable for evacuation or fire suppression with the written concurrence of a Public Fire Agency and determined by the Director to be consistent with the purpose of the Act and Rules; or

(E) Either side of ridges suitable for fire suppression with the written concurrence of a Public Fire Agency and determined by the Director to be consistent with the purpose of the Act and Rules; or

(F) Infrastructure including electrical distribution and transmission facilities, water reservoirs or other conveyances, wastewater facilities or conveyances, communication and data transmission and distribution facilities, or other assets or infrastructure at risk with the written concurrence of a Public Fire Agency and determined by the Director to be consistent with the purpose of the Act and Rules.

(d) Vegetation Treatments: Tree removal shall target Codominant and Understory trees. The residual stand shall consist primarily of well-distributed, healthy and vigorous Dominant and Codominant trees from the preharvest stand.

(1) The following restrictions exist related to the diameter of trees that may be harvested pursuant to this section:

(A) Only trees less than thirty (30) inches in stump diameter, measured at eight (8) inches above ground level, may be removed except under the following condition: if the goal of fuel reduction cannot be achieved by removing trees less than thirty (30) inches in stump diameter, measured at eight (8) inches above ground level; trees less than thirty-six (36) inches in stump diameter, measured at eight (8) inches above ground level, may be removed if that removal is necessary to meet the fuel objectives stated in 14 CCR § 1052.1(a)(5).

(B) No trees of the genus Quercus that are greater than twenty-six (26) inches outside bark stump diameter, measured at eight (8) inches above ground level, may be removed.

(2) Notwithstanding 14 CCR § 1052.4(d)(1)(A) and (B), dead or Dying trees, of any size, may be removed according to the standards of 14 CCR § 919.1 [939.1, 959.1], as applicable.

(3)(A) The following canopy retention requirements are applicable to Timber Operations conducted pursuant to 14 CCR §§ 1038(f) (**Note: Small Timberland Owner Exemption**) and 1038.3: Minimum post treatment Canopy closure of Dominant and Codominant trees shall be 40% for east side pine forest types; 50% for coastal redwood and Douglas-fir forest types in or adjacent to communities and legal structures referenced in 14 CCR § 1052.4(c)(1) and (c)(2)(A); 60% for coastal redwood and Douglas-fir forest types outside of communities and legal structures referenced in 14 CCR § 1052.4(c)(1) and (c)(2)(A); and 50% for mixed conifer and all other forest types.

(B) The following canopy retention requirements are applicable to emergency Timber Operations conducted pursuant to 14 CCR § 1052.4:

1. Except for the conditions described within 2. below, minimum post treatment Canopy closure of Dominant and Codominant trees shall be 30% for east side pine forest types; 40% for coastal redwood and Douglas-fir forest; and 40% for mixed conifer and all other forest types.

2. When the average diameter of residual trees within the Harvest Area is less than sixteen (16) inches d.b.h. and the pre-treatment stand conditions described within 14 CCR § 1052.4(a)(1) are representative of homogenous forest stand conditions typical of plantations (such as homogeneity in: age distribution, d.b.h., height, or species composition), either of the retention standards set forth in a. or b. below must be achieved.

a. Minimum post treatment Canopy closure of Dominant and Codominant trees shall be 30% for east side pine forest types; 40% for coastal redwood and Douglas-fir forest; and 40% for mixed conifer and all other forest types.

b. A minimum of sixty-five (65) trees per acre over four (4) inches d.b.h. shall be retained.

(4)(A) Within the Harvest Area, Surface Fuels, Ladder Fuels, Slash, Woody Debris, and dead brush that will promote the spread of wildfire shall be treated as follows:

1. Those fuels described within (A) above, excluding residual stand Dominant and Codominant trees and any dead branches on those trees, shall be spaced to achieve vertical clearance distance of eight (8) feet or three (3) times the height of the postharvest fuels and vegetation, excluding Dominant and Codominant trees, whichever is the greater distance, measured from the base of the live crown of the postharvest Dominant and Codominant trees to the top of the Surface or Ladder Fuels or vegetation, whichever is taller.

2. Additional fuel treatment standards are as follows:

a. Within one hundred-fifty (150) feet of those structures identified within 14 CCR § 1052.4(c)(1) and (c)(2)(A), all Surface Fuels, Slash, Woody Debris, and dead brush that will promote the spread of wildfire shall be chipped, burned, or removed within forty-five (45) days from the start of Timber Operations.

b. Except for those areas described in provision a. above, all Surface Fuels, Slash, Woody Debris, and dead brush that will promote the spread of wildfire, within the Harvest Area, shall be treated to an average depth of less than nine (9) inches.

(B) Postharvest compliance shall be determined by the combination of physical measurements and observations. Postharvest compliance shall be met on at least 80% of the Project area as calculated excluding WLPZs and other wildlife protection requirements developed in accordance with 14 CCR § 1052.4(g).

(C) The requirements of this subsection shall not supersede requirements of PRC § 4291.

(5) Fuel treatments shall include chipping, removal or other methods necessary to achieve the fuel hazard reduction standards in this section, and, notwithstanding the requirements of 14 CCR § 1052.4(d)(4)(A)2.a., shall be accomplished within one (1) year from the date the Emergency Notice is accepted by the Director, except for burning operations, which instead shall be completed within two (2) years from the date the Director accepts the notice.

(e) Stocking shall meet the resource conservation standards for minimum Stocking within 14 CCR § 912.7 [932.7, 952.7] (a)-(c), as applicable, immediately upon completion of Timber Operations. Because the lands treated pursuant to 14 CCR § 1052.4 are designated as defensible space or Fuelbreak areas, the wood production potential of these lands is compatible with the lowest Site Classifications and they shall be considered site IV Timberland for Stocking purposes.

(f) The resource conservation standards of the Rules may be met with Group A and/or Group B commercial species. The percentage of the stocking requirement met with Group A species shall be no less than the percentage of the stand basal area they comprised before harvesting. The following information shall be supplied by the RPF preparing the Notice and included in submission of the Notice:

(1) How using Group B species to meet the resource conservation standards will meet the intent of 14 CCR § 1052.4. The discussion shall include at least:

(A) The management objectives of the post-harvest stand.

(B) A description of the current stand, including species composition and current stocking levels within the area of Group B species. The percentage may be measured using point-count, basal area, or stocked plots.

(C) The percentage of the post-harvest stocking to be met with Group B species. Post-harvest percentages will be determined on the basis of stocked plots. Only the methods provided for in 14 CCR §§ 1070-1075 shall be used in determining if the standards of PRC § 4561 have been met.

(D) A description of what will constitute a countable tree, as defined by PRC § 4528 for Group B species, and how such a tree will meet the management objectives of the post-harvest stand.

(g) As part of the preharvest Project design, the RPF shall incorporate habitat requirements for fish, wildlife and plant Species in accordance with 14 CCR §§ 898.2, 916.9 [936.9, 956.9] and 919 [939, 959] et seq. Such evaluations shall include use of the California Natural Diversity Database (as referenced by the CDFW, https://www.wildlife.ca.gov/Data/CNDDB) and local knowledge of the Planning Watershed. Consultation with CDFW personnel is recommended. Examples of habitat requirements to be incorporated into the Project include retention of large Woody Debris and Snags congruent with Emergency condition goals, and vegetative screening for wildlife cover and visual aesthetics.

(h) Before commencement of Timber Operations by each LTO directly responsible for Timber Operations identified on the Notice, the RPF who prepared the Notice, or their Supervised Designee, shall meet with either the LTO or the LTO's representative. The purpose of the meeting shall be for the RPF to familiarize the LTO with the Notice, the Harvest Area described within the Notice, and specific applicable requirements of the Notice. The meeting shall be on-site if requested by either the RPF or LTO. An on-site meeting is required between the RPF or Supervised Designee familiar with on-site conditions and the LTO to discuss protection of any archaeological or historical sites requiring protection, if any such sites exist within the site survey area, pursuant to 14 CCR § 929.2 [949.2, 969.2] (b).

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 21001(f) and 21080(b)(4), Public Resources Code.