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**State of California**  
**Office of Administrative Law** BOARD OF FORESTRY AND FIRE PROTECTION

**In re:**  
**Board of Forestry and Fire Protection**

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections:**  
**Amend sections: 1104.1**  
**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

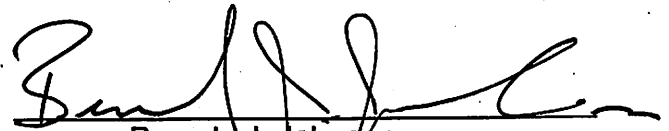
**OAL Matter Number: 2018-0726-01**

**OAL Matter Type: Regular (S)**

This rulemaking action by the Board of Forestry and Fire Protection revises the less than three-acre conversion exemption, which provides relief to landowners from certain portions of the Forest Practice Rules. Landowners utilize the exemption for various purposes, including the construction of residences.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2019.

**Date:** September 6, 2018



Beverly J. Johnson  
Deputy Director

**For:** Debra M. Cornez  
Director

**Original:** Matt Dias, Acting Executive  
Officer

**Copy:** Eric Hedge

1 **Board of Forestry and Fire Protection**

2 **“Timberland Conversion Exemptions, 2018”**

3 **Title 14 of the California Code of Regulations (CCR)**

4 **Division 1.5, Chapter 4**

5 **Subchapter 7, Article 7**

6 **Amend: § 1104.1**

7 **§ 1104.1. Conversion Exemptions**

8 Timber Operations conducted under this subsection shall be exempt from eConversion pPermit and  
9 timber harvesting Plan requirements of this article except no tree that existed before 1800 A.D. and is  
10 greater than sixty (60) inches in Diameter at stump height for Sierra or Coastal Redwoods, and forty-eight  
11 (48) inches in Diameter at stump height for all other tree Species shall be harvested unless done so  
12 under the conditions or criteria set forth in subsection 1104.1(i). Timber Operations shall comply with all  
13 other applicable provisions of the Z'berg-Nejedly Forest Practice Act, regulations of the Board and  
14 currently effective provisions of county general plans, zoning ordinances and any implementing  
15 ordinances. The Notice of Conversion Exemption Timber Operations shall be considered synonymous  
16 with the term “Plan” as defined in 14 CCR § 895.1 when applying the operational Rules and regulations of  
17 the Board.

18 (a) This conversion exemption is applicable to a conversion of Timberland to a non-timber use only,  
19 of less than three acres in one contiguous ownership, whether or not it is a portion of a larger land  
20 parcel and shall not be part of a THP. This conversion exemption may only be used once per  
21 contiguous land ownership. If all or a portion of the contiguous land ownership has been subject to  
22 prior, unpermitted timberland conversion, a conversion exemption hereunder shall not be accepted  
23 unless the Director determines that it would be consistent with the purposes of the Act. No Person,  
24 whether acting as an individual, acting as a member of a partnership, or acting as an officer or  
25 employee of a corporation or other legal entity, may obtain more than one exemption pursuant to this

1 section in a five-year period. If a partnership has as a member, or if a corporation or any other legal  
2 entity has as an officer or employee, a Person who has received  
3 this exemption within the past five years, whether as an individual or as a member of a  
4 partnership, or as an officer or employee of a corporation or other legal entity, then that partnership,  
5 corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this  
6 section, means an individual, partnership, corporation, or any other legal entity.

7 (1) A Notice of Conversion Exemption Timber Operations (notice) must be prepared by an RPF  
8 and submitted to the Director. The notice shall contain the following:

9 (A) the names, addresses, and telephone numbers of the Timber Owner, owner of the  
10 Timberland to be converted, RPF, Timber Operator, and the submitter of the Notice of  
11 Conversion Exemption Timber Operations;

12 (B) legal description of the area where the Timber Operation is to be conducted, showing  
13 section, township, range, county and assessor parcel number;

14 (C) maps showing the ownership boundaries, the location of the Timber Operation,  
15 boundaries of the conversion, access routes to operation, location and classification of all  
16 Watercourses, and Landing locations;

17 (D) incorporation of a signed and dated statement from the authorized designee of the  
18 County Board of Supervisors stating that the conversion is in conformance with all county  
19 regulatory requirements, including county public notice requirements. When counties do not  
20 have an authorized designee, the RPF shall certify that the county has been contacted and  
21 the conversion is in conformance with county regulatory requirements (this may be  
22 incorporated into the notice);

23 (E) incorporation of a statement by the owner of the Timberland to be converted:

24 1. certifying that this is a one-time conversion to non-Timberland use,  
25

1 2. certifying that after considering the owner's own economic ability to carry out the  
2 proposed conversion and the feasibility evaluation required by 14 CCR § 1104.1(a)(6)  
3 that there is "bona fide intent", as defined in 14 CCR § 1100(b), to convert,  
4 3. specifying what the non-Timberland use will be after conversion, and  
5 4. certifying and declaring under penalty of perjury that he/she whether acting as an  
6 individual, acting as a member of a partnership, or acting as an officer or employee of a  
7 corporation or other legal entity, has not obtained an exemption pursuant to this section  
8 in the last five years unless a waiver has been granted pursuant to § 1104.1(a)(9); and  
9 (F) signature of the submitter, Timberland owner responsible for the conversion, the Timber  
10 Operator, and the RPF.

11 (2) The following conditions apply to conversion exemption Timber Operations:

12 (A) All Timber Operations shall be complete within one year from the date of acceptance by  
13 the Director.

14 (B) All conversion activities shall be complete within two years from the date of acceptance  
15 by the Director unless under permit by  
16 local jurisdiction. Failure to timely complete the conversion shall require compliance with  
17 Stocking Standards of PRC § 4561 and Stocking report requirements of Forest Practice Act  
18 and Board regulations.

19 (C) The RPF or Supervised Designee shall visit the site and flag the boundary of the  
20 conversion exemption Timber Operation and flag any applicable WLPZs and Equipment  
21 Limitation Zones.

22 (D) This section refers to Slash and Woody Debris resulting from Timber Operations  
23 associated with conversion exemptions. The Timber Operator shall be the responsible party  
24 for the treatment of logging Slash and Woody Debris. ~~Responsibility for treatment of logging~~  
25 ~~Slash and Woody Debris may be assumed by the landowner, provided that the landowner~~

1 ~~acknowledges in writing to the Director at the time of notice such responsibility and specific~~  
2 ~~Slash and Woody Debris treatment requirements and timing.~~

3 1. Unless otherwise required, Slash greater than one inch in Diameter and greater than  
4 two feet long, and Woody Debris, except pine, shall receive full treatment no later than  
5 April 1 of the year following its creation, or within one year from the date of acceptance of  
6 the conversion exemption by the Director, whichever comes first.

7 2. All pine ~~S~~lash three inches and greater in Diameter and longer than four feet must  
8 receive initial treatment if it is still on the parcel, within seven (7) days of its creation.

9 3. All pine Woody Debris longer than four feet must receive an  
10 initial treatment prior to full treatment.

11 4. Initial treatment shall include limbing Woody Debris and cutting Slash and Woody  
12 Debris into lengths of less than four feet, and leaving the pieces  
13 exposed to solar radiation to aid in rapid drying.

14 5. Full treatment of all pine Slash and Woody Debris must be completed by March 1 of  
15 the year following its creation, or within one year from the date of acceptance of the  
16 conversion exemption by the Director, whichever comes first.

17 6. Full Slash and Woody Debris treatment may include any of the following:

- 18 a. burying;
- 19 b. chipping and spreading;
- 20 c. piling and burning; or
- 21 d. removing Slash and Woody Debris from the site for treatment in compliance with
- 22 (a)-(b).

23 Slash and Woody Debris may not be burned by open outdoor fires except under permit from the  
24 appropriate fire protection agency, if required, the local air pollution control district or air quality

1 management district. The burning must occur on the property where the Slash and Woody Debris  
2 originated.

3 7. Slash and Woody Debris, except for pine, which is cut up for firewood shall be cut to  
4 lengths 24 inches or less and set aside for drying by April 1 of the year following its  
5 creation. Pine Slash and Woody Debris which is cut up for firewood shall be cut to  
6 lengths 24 inches or less and set aside for drying within seven (7) days of its creation.

7 All treatment work must be completed prior to the expiration date for the conversion exemption.

8 8. Any treatment which involves burning of Slash or Woody Debris shall comply with all  
9 state and local fire and air quality Rules.

10 9. This section does not supersede more restrictive treatments or time frames within a  
11 Forest district or subdistrict.

12 (E) Timber Operations may be conducted during the Winter Period. Tractor Operations in the  
13 Winter Period are allowed under any of the following conditions:

14 1. During dry, rainless periods but shall not be conducted on Saturated Soil Conditions  
15 that may produce Significant Sediment Discharge. Erosion Control structures shall be  
16 installed on all constructed skid trails and Tractor Roads prior to sunset if the National  
17 Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

18 2. When ground conditions in the conversion exemption area and Appurtenant Roads  
19 satisfy the "hard frozen" definitions in 14 CCR § 895.1.

20 3. Over-snow operations where no soil disturbance occurs.

21 (F) No Timber Operations within a WLPZ unless specifically approved by local permit (e.g.  
22 County, City).

23 (G) The Timber Operator shall not conduct Timber Operations until receipt of the Director's  
24 notice of acceptance. Timber Operations shall not be conducted without a valid on-site copy  
25

1 of the Director's notice of acceptance of operations and a copy of the Notice of Conversion  
2 Exemption Timber Operations as filed with the Director.

3 (H) No sites of rare, threatened or endangered plants or animals shall be disturbed,  
4 threatened or damaged and no Timber Operations shall occur within the Buffer Zone of a

5  
6 Sensitive Species as defined in 14 CCR § 895.1.

7 (I) No Timber Operations on significant historical or archeological sites, except under the  
8 following conditions:

9 1. If a significant archeological site is identified by the RPF preparing the Notice of  
10 Conversion Exemption within the Project boundary, the site may be preserved in place by  
11 capping or covering with a layer of soil prior to submission.

12 a. If a site has been preserved in place, the RPF preparing the Notice of Conversion  
13 Exemption shall obtain written concurrence from a Department Archeologist prior to  
14 submission indicating operations will not cause damage to a significant archeological  
15 site.

16 b. The written concurrence from a Department Archeologist shall be submitted with  
17 the Notice of Conversion Exemption.

18 (J) The RPF and the Timber Operator shall meet (on-site, or off-site) if requested by either  
19 party to ensure that sensitive on-site conditions and the intent of the conversion regulations  
20 such as, but not limited to, Slash disposal, will be complied with during the conduct of  
21 Timber Operations.

22 (K) Before beginning Timber Operations, the Timber Operator shall notify the Department of  
23 the actual commencement date of operations. The notification, by telephone, mail, or email,  
24 shall be directed to the appropriate CAL FIRE Unit Headquarters, Forest Practice Inspector

1           or other designated personnel. If the notification is provided by mail, Timber Operations may  
2           not commence until three (3) days after the postmark date of notification.

3           (3) A neighborhood notification of conversion exemption Timber Operations shall be posted on  
4           the ownership visible to the public by the RPF or Supervised Designee, at least five (5) days prior  
5           to the postmark date of submission of the Notice of Conversion Exemption Timber Operations to  
6           the Director. The date of posting shall be shown on the neighborhood notice. In addition,  
7           immediately prior to the submission of the exemption to the Director, the landowner shall mail a  
8           letter to adjacent landowners within 300 feet of the boundaries of the exemption, and to Native  
9           Americans, as defined in 14 CCR § 895.1 notifying them of the intent to harvest timber. The  
10          mailed letter of notice and the posted notice shall contain a map of the project area and the  
11          following information on a form prepared by the RPF:

12                 (A) the name, address and telephone number of the Timberland owner, the Timber Operator,  
13                 the agency of the county responsible for land use changes and the designated  
14                 representative; if any, and the RPF;

15                 (B) the location of the Project, parcel number, street address, section, township and range,  
16                 and;

17                 (C) A statement explaining that this is a conversion from Timberland use to a new land use,  
18                 what the new land use will be, and that the maximum size is less than three acres.

19           (4) The Director shall determine if the Notice of Conversion Exemption Timber Operations is  
20          complete and accurate within fifteen (15) days from the date of receipt.

21                 (A) If the Notice of Conversion Exemption Timber Operations is not complete and accurate it  
22                 shall be returned to the submitter identifying the specific information required. When found  
23                 complete and accurate, the Director shall immediately send a notice of acceptance of  
24                 operations to the submitter.



1 (5) The Timberland owner shall, within one month from the completion of conversion exemption  
2 Timber Operations, which includes all slash disposal work, submit a work completion report to  
3 the Director.

4 (6) The Timberland owner shall, using the services of an RPF to the extent the information  
5 required is within the scope of professional forestry practice, provide information documenting  
6 that the conversion to the stated non-timber use is Feasible based upon, at a minimum, the  
7 following:

8 (A) the extent of the vegetation removal and site preparation required for the conversion;

9 (B) the suitability of soils, slope, aspect, and microclimate for the stated non-timber use;

10 (7) The Department shall provide for inspections, as needed, to determine that the conversion  
11 was completed.

12 (8) The notice shall expire if there is any change in Timberland ownership.

13 (A) If the conversion has not been completed, the Timberland owner on the notice shall notify  
14 the Department of the change in Timberland ownership on or before five (5) calendar days  
15 after a change in ownership.

16 (B) If operations have been conducted, but not completed under the exemption, the  
17 Timberland owner on the notice shall notify the new Timberland owner at least fifteen (15)  
18 days prior to the sale of the Timberland of the requirements under 14 CCR § 1104.1(a)(8)(C).

19 (C) If operations have been conducted, but not completed under the exemption, the new  
20 Timberland owner shall:

21 1. submit a new notice, or

22 2. comply with the following:

23 a. harvest no additional timber;

24 b. meet Stocking requirements of 14 CCR § 1104.1(a)(2)(B);

25

1 c. dispose of the slash created under the exemption activities according to 14 CCR  
2 § 1104.1(a)(2)(D);

3 d. provide Erosion Control for skid trails, roads, Landings, and disturbed areas as  
4 required by the Forest Practice Rules.

5 e. submit a report within ninety (90) days of the change of Timberland ownership that  
6 items a through d above were completed.

7 (9) A Timberland owner may request a waiver to the five-year limitation described in 14 CCR §  
8 1104.1(a). The Director may grant the waiver upon finding that one of the following conditions  
9 exist:

10 (A)1. the construction of a building approved by the appropriate county/city permitting  
11 process is listed in the accepted Notice of Conversion Exemption Timber Operations as  
12 the non-Timberland use after the conversion, and

13 2. the Timberland owner demonstrates to the Director that substantial liabilities for  
14 building construction have been incurred on each conversion exemption that the  
15 Timberland owner has received in the last 5 years at the time the waiver is requested,  
16 and

17 3. operations conducted on all exemptions issued to the Timberland owner within the  
18 past 5 years, prior to the time the waiver is requested, have been conducted in a manner  
19 that meets or exceeds the intent of the Act and Rules or any corrective work required by  
20 the Director has been satisfactorily completed.

21 (B) the change of ownership which caused the previous notice to expire was not the result of  
22 the sale of the Timberland and the new Timberland owner provides information  
23 demonstrating that the imposition of the 5-year limitation described in 14 CCR § 1104.1(a)  
24 would impose an undue hardship on the Timberland owner.

25 (C) the notice has expired and no operations have been conducted.

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(D) The Timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the 5-year limitation described in 14 CCR § 1104.1(a) would impose an undue hardship on the Timberland owner.

\*\*\*\*

Note: Authority cited: Sections 4551, 4553, 4584, 4604, 4611 and 4628, Public Resources Code.

Reference: Sections 4512, 4513, 4584, 4597, 4628 and 21083.2(b)(3), Public Resources Code.