

FOREST PRACTICE COMMITTEE

April 9, 2015

Board of Forestry and Fire Protection

PROTECTION OF HABITABLE STRUCTURES EXEMPTION, 2015

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

Division 1.5, Chapter 4, Subchapter 7, Article 2

Amend: 895.1, 1038 and 1038.2

Comment [TB1]: See last part of Comment 10.

1038. Exemption.

****(c) The cutting or removal of trees in compliance with PRC sections §§ 4290 and 4291 and 14 CCR § 1299.03, which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak to reduce fire spread, duration and intensity.

Comment [TB2]: Staff suggestion to add this since it is the Board's rules that makes specific PRC § 4291.

- (1) Only trees within one-hundred-fifty (150) feet from any point of an approved and legally permitted structure that complies with the California Building Code may be harvested, except as specified in 14 CCR § 1038(c)(6).
- (2) The following silvicultural methods may not be used: clearcutting, seed tree removal step, shelterwood removal step.
- (3) All surface fuels created by timber operations under the exemption which could promote the spread of wildfire, including logging slash and debris, deadwood, branches exceeding one (1) inch in diameter, and brush, shall be chipped, burned, or removed within forty-five (45) days from the start of timber operations.

Comment [TB3]: Member Miles comment.

(4) In addition to the slash treatment described in ~~14~~ 14 CCR § 1038(c)(3), the areas of timber operations must meet the vegetation treatment standards in PRC § 4584(j)(1) to (2) (A) illustrated in Technical Rule Addendum No.4 within one year from the receipt of issuance of Nnotice of Aacceptance. This provision does not apply to 14 CCR § 1038 (c)(6).

Comment [TB4]: 14 CCR §1038(c)(3) All surface fuels created by timber operations under the exemption which could promote the spread of wildfire, including logging slash and debris, deadwood, branches exceeding 1 inch in diameter, and brush, shall be chipped, burned, or removed within 45 days from the start of timber operations.

Comment [TB5]: PRC § 4584 (j) (1) The harvesting 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 the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns.
(2) The board may authorize an exemption pursuant to paragraph (1) only if the tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand, and the tree harvesting area will not exceed 300 acres.

(5) In addition to the limitations listed in 14 CCR § 1038(b)(1)-(10), the following apply:

Comment [TB6]: Should staff pursue an update to this Figure?

Comment [TB7]: Staff added to be congruent with 14 CCR §1038(c)(6)(D)

Comment [TB8]: Member Miles comment.

(A) The timber operator, or if applicable the RPF, shall provide the Director the tentative commencement date of timber operations on the notice required in 14 CCR § 1038.2. Within a fifteen (15) day period before beginning timber operations, the timber operator shall notify CDF the Department of the actual commencement date for the start of operations. The starting date shall be directed to the designated personnel at the appropriate CDF Ranger Department Unit Headquarters by telephone, email, or by mail.

(B) Timber operations conducted under this subsection shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances within which the exemption is located. The timber operator, or timberland owner, or if applicable the RPF, shall certify that the city or county has been contacted and the exemption conforms with all city or county regulatory requirements.

Comment [TB9]: Member Miles comment.

(C) Timber operations may not be conducted without a copy of the Director's notice of acceptance of the exemption at the operating site, except where the Director has failed to act within the 5 working-day

review period.

(6) Trees that are located from one-hundred-fifty (150) feet up to three-hundred (300) feet from any point of an approved and legally permitted habitable structure that complies with the California Building Code may also be harvested provided the following conditions are met:

(A) The post harvest stocking of treated areas shall be consistent with 14 CCR § 913.2 [933.2, 953.2].

(B) The quadratic mean diameter of the treated areas shall increase as a result of harvest activity.

(C) The post harvest stand shall be comprised of healthy and vigorous dominant and codominant trees that are well distributed throughout the treated area.

(D) The post harvest slash treatment and stand conditions will lead to more moderate fire behavior in the professional judgment of the registered professional forester who submits the notice of exemption.

(D) The Notice of Exemption, pursuant to 14 CCR § 1038.2, shall be prepared, signed, and submitted by a Registered Professional Forester (RPF) to the Department and shall contain a certification by the RPF, who submits the Notice of Exemption, that the post harvest stand conditions will result in more moderate fire behavior, in their professional judgement.

(E) For this purpose of 14 CCR § 1038(c)(6), "Habitable Structure" means a building that contains one or more dwelling units or that can be occupied for residential use. Buildings occupied for residential use include single family homes, multi-dwelling structure, mobile and

Comment [TB10]: Member miles insertion.
Pursuant to PRC § 4584(i)(6)(B) "habitable structure" means a building that contains one or more dwelling units or that can be occupied for residential use. Buildings occupied for residential use include single family homes, multidwelling structures, mobile and manufactured homes, and condominiums. For purposes of this paragraph "habitable structure" does not include commercial, industrial, or incidental buildings such as detached garages, barns, outdoor sanitation facilities, and sheds.
Pursuant to 14 CCR § 1665.2 and PRC § 4211.
"Habitable Structure" means a building that contains one or more dwelling units or that can be occupied for residential use. Buildings occupied for residential use include single family homes, multidwelling structures, mobile and manufactured homes, and condominiums. Habitable structures do not include commercial, industrial, or incidental buildings such as detached garages, barns, outdoor sanitation facilities, and sheds.
Pursuant to 895.1 "Approved and legally permitted structure" means, for the purposes of 14 CCR § 1038(c), only structures that are designed for human occupancy and garages, barns, stables, and structures used to enclose fuel tanks."
Staff comment: need to change definition in 895.1 to make it specific to 1038(c)((1)-(5).

Comment [TB11]: Mike Tadlock suggested that the goal of fire hazard may be better met if trees were not well distributed. This phrase is in statute, but the Board could define it. GRSEL and TR do not equal well distributed and are allowed.

Comment [TB12]: Slash, pursuant to PRC § 4525.7, means branches or limbs less than four inches in diameter, and bark and split products debris left on the ground as a result of timber operations.

Comment [TB13]: Options:
1. Adopt only a performance standard.
2. Set a minimum treatment standard per other fuel hazard reduction projects
3. Adopt no language and rely on statute for nonduplication. Refer to PRC § 4584(h)(6)(A)(ii)(IV and V)

Comment [TB14]: 4. Member Miles comment. Deleted language duplicated from 14 CCR § 1038(c)(5). With the elimination of the bifurcation, 14 CCR § 1038(c)(6) piggy backs on the existing requirements identifying what additional requirements are necessary for 150 to 300'.

manufactured homes, and condominiums. A habitable structure does not include commercial, industrial, or incidental buildings such as detached garages, barns, outdoor sanitation facilities, and sheds.

~~(F) The Department shall evaluate the effects of the exemption allowed under 14 CCR § 1038(c)(6) and shall report its recommendations, prior to January 1, 2019, to the Legislature based on that evaluation.~~

(F) 14 CCR § 1038(c)(6) shall expire on January 1, 2019.

Comment [TB15]: Miles comment. If The Board does not decide to make this specific, consider not duplicating statute in the rules as it does not really apply to the landowner.

Option: Possible for Board to identify which aspects of the exemption process that the Department shall evaluate and report upon. Also, the date is important to allow for legislative extension of the Exemption if the process is found to meet the intention of the legislature.

1038.2. Exemption Form.

****(f) In addition to (a) through (ed) above, the following shall be included for exemptions conducted under 14 CCR § 1038(i), and (j) and (c)(6):****

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