

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

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. Under this section trees may be cut or removed within 150' of an approved and legally permitted structure, and within 300' of an approved and legally permitted habitable structure.

- ~~(1) Only trees within one hundred fifty feet from any point of an approved and legally permitted structure that complies with the California Building Code may be harvested.~~
- ~~(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 1 inch in diameter, and brush, shall be chipped,~~

Comment [TB1]: See Comment 3.

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

Comment [TB3]: Staff comment: need to change definition of "approved and legally permitted structure" in 895.1 to make it specific to 1038(c)((1)-(5).

Member Wade comment: Include the definition of a "habitable" structure in 895.1, complementing the existing definition of "approved and legally permitted structure".

Background: 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."

burned, or removed within 45 days from the start of timber operations.

(4) In addition to the slash treatment described in 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 Notice of Acceptance.

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

(A) The timber operator shall provide the Director the tentative commencement date of timber operations on the notice required in 14 CCR 1038.2. Within a 15 day period before beginning timber operations, the timber operator shall notify CDF 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 Unit Headquarters by telephone, 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.

(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.

(4) If operations are limited to an area within 150 of an approved and legally permitted structure, the following applies:

(A) The following silvicultural methods may not be used: clearcutting, seed tree removal step and shelterwood removal step.

(B) 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.

(C) In addition to the slash treatment described in 14 CCR § 1038(c)(3), the areas of timber operations must meet the vegetation treatment standards in PRC § 4584(j)(1) to (2) illustrated in Technical Rule Addendum No.4 within one year from the receipt of issuance of notice of acceptance.

(D) The timber operator 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 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 Department Unit Headquarters by telephone, email, or by mail.

(5) If operations are conducted within the area between 150 ft to 300 ft of a legally permitted and approved habitable structure, the following applies:

(A) The Notice of Exemption must be prepared, signed, and submitted to the department by a Registered Professional Forester (RPF).

(B) 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 the Department of the actual commencement date for the start of operations.

Comment [TB4]: 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 [TB5]: 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 [TB6]: 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.

Comment [TB7]: Should staff pursue an update to this Figure?

Member Wade comment: TRA #4 does not seem to illustrate what is required of 4584(j) (1) and (2), rather PRC 4291 and 14CCR 1299.

Staff: Research what is the "issuance of a notice of acceptance? Is it the acceptance by the Department of the submitted exemption form.

The starting date shall be directed to the designated personnel at the appropriate Department Unit Headquarters by telephone, email, or by mail.

(C) For areas treated between 150 ft and 300 ft from a legally permitted habitable structure, the following shall apply:

1. The post harvest stocking shall be consistent with 14 CCR § 913.2 [933.2, 953.2].

2. The quadratic mean diameter shall increase as a result of harvest activity.

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

4. The RPF shall briefly describe in the notice of exemption how in his professional judgment the post harvest slash treatment and stand conditions described will lead to more moderate fire behavior.

Comment [TB8]: 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 [TB9]: Options:
1. Adopt only a performance standard.
2. Set a minimum treatment standard per other fuel hazard reduction projects
Adopt no language and rely on statute for nonduplication. Refer to PRC § 4584(h)(6)(A)(ii)(IV and V))

Comment [TB10]: 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.

Comment [TB11]: Staff Comment: Where should this new language be placed? 14 CCR § 1038(c)(6) shall expire on January 1, 2019.

1038.2. Exemption Form.

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

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