

State of California  
Office of Administrative Law

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APR 19 2017  
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: 1038  
Repeal sections:

**CORRECTED** NOTICE OF APPROVAL OF  
CHANGES WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1,  
Section 100

OAL Matter Number: 2017-0316-02

OAL Matter Type: Nonsubstantive (N)

This change without regulatory effect filing by the Board of Forestry and Fire Protection amends section 1038 in title 14 of the California Code of Regulations. This section is inconsistent with newly enacted statutory provisions. The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The legislature established the Forest Fire Prevention Pilot Project Exemption (FFPPPE) that may be authorized if certain conditions are met. Assembly Bill 2029, section 2 (Ch. 583, Stat. of 2016), made changes to the Forest Fire Prevention Pilot Project Exemption including the size of the tree that can be removed from 24" stump diameter to 26" stump diameter. The amendment also revised the geographic scope in which the FFPPPE is eligible for use, which includes the Tahoe Basin and extended the sunset date of the pilot program from January 1, 2018 to January 1, 2021. Conforming changes are being made to section 1038 in title 14 in this change without regulatory effect filing.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: April 19, 2017

  
Peggy J. Gibson  
Senior Attorney

For: Debra M. Cornez  
Director

Original: Matt Dias  
Copy: Matt Dias

1 **Board of Forestry and Fire Protection**  
2 **FOREST FIRE PREVENTION PILOT PROJECT EXEMPTION, 2017**  
3 **Title 14 of the California Code of Regulations (14 CCR),**  
4 **Division 1.5, Chapter 4,**  
5 **Subchapter 7, Article 2**

7 **Amend:**

8 **§ 1038. Exemption**

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

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

17 (ii) all timber operations conducted in the Lake Tahoe Region pursuant to 14 CCR §  
18 1038 must have a valid Tahoe Basin Tree Removal Permit (as defined by the Tahoe  
19 Regional Planning Agency) or shall be conducted under a valid TRPA Memorandum of  
20 Understanding (MOU), when such a permit is required by TRPA.

21 \*\*\*\*\*

22 (j) The harvesting of trees in compliance with PRC § 4584(j)(11), Forest Fire Prevention  
23 Exemption Pilot Project, limited to those trees that eliminate the vertical continuity of  
24 vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing  
25

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

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

5 \*\*\*\*\*

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

15 ~~On the east by the eastern boundary of the State of California; the crest of the~~  
16 ~~White/Inyo ranges; and State Routes 395 and 14 south of Olancha; on the south by~~  
17 ~~State Route 58, Tehachapi Creek, and Caliente Creek; on the west by the line of 1,250~~  
18 ~~feet above sea level from Caliente Creek to the Kern/Tulare County line; the lower level~~  
19 ~~of the western slope's blue oak woodland, from the Kern/Tulare County line to the~~  
20 ~~Sacramento River near the mouth of Seven-Mile Creek north of Red Bluff; the~~  
21 ~~Sacramento River from Seven-Mile Creek north to Cow Creek below Redding; Cow~~  
22 ~~Creek, Little Cow Creek, Dry Creek, and the Shasta National Forest portion of Bear~~  
23 ~~Mountain Road, between the Sacramento River and Shasta Lake; the Pit River Arm of~~  
24 ~~Shasta Lake; the northerly boundary of the Pit River watershed; the southerly and~~

1 easterly boundaries of Siskiyou County; and within Modoc County, the easterly  
2 boundary of the Klamath River watershed; and on the north by the northern boundary of  
3 the State of California; excluding the Lake Tahoe Region. Lake Tahoe Region means:  
4 That part of Lake Tahoe within the jurisdiction of the State of California, the adjacent  
5 parts of the Counties of El Dorado and Placer lying within the Tahoe Basin in the State  
6 of California, and that additional and adjacent part of the County of Placer outside of the  
7 Tahoe Basin in the State of California which lies southward and eastward of a line  
8 starting at the intersection of the basin crestline and the north boundary of Section 1,  
9 thence west to the northwest corner of Section 3, thence south to the intersection of the  
10 basin crestline and the west boundary of Section 10; all sections referring to Township  
11 15 North, Range 16 East, MDB&M. The Lake Tahoe region is defined on the official  
12 maps of the Tahoe Conservancy.

13 \*\*\*\*\*

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

18 ~~(18)~~ (19) 14 CCR § 1038(j) shall expire on January 1, 2018 2021.

19 \*\*\*\*\*

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

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

25 Reference: Sections 4527 and 4584, Public Resources Code.

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