

1 AB 2420, Forest Fire Prevention Exemption, 2005

2 Permanent Rule Language Adopted by BOF on July 14, 2005,
3 OAL Approval on November 9, 2005

4 Amend 14 CCR § 1038(e) Exemption

5 Adopt 14 CCR § 1038(i) Exemption

6 Amend 14 CCR § 1038.2 Exemption Form

7
8 Amend: 14 CCR § 1038(e)

9 (e) Operations pursuant to an exemption under subsection (c), (d)
10 and (i) ~~(d)~~ may not commence for five working days from the date of
11 the Director's receipt of the Notice of Exemption unless this delay
12 is waived by the Director, after consultation with other state
13 agencies. The Director shall determine whether the Notice of
14 Exemption is complete, and if so, shall send a copy of a notice of
15 acceptance to the submitter. If the Notice of Exemption is not
16 complete and accurate, it shall be returned to the submitter and the
17 timber operator may not proceed. If the Director does not act within
18 five days of receipt of the Notice of Exemption, timber operations
19 may commence.

20
21 Adopt 14 CCR § 1038(i) - Exemption

22 (i) The harvesting of trees in compliance with PRC § 4584(k),
23 Forest Fire Prevention Exemption, limited to those trees that
24 eliminate the vertical continuity of vegetative fuels and the
25 horizontal continuity of tree crowns, for the purpose of reducing the
rate of fire spread, duration and intensity, fuel ignitability, or

1 ignition of tree crowns, when the following conditions are met:

2 (1) The logging area does not exceed 300 acres in size.

3 (2) The tree harvesting will decrease fuel continuity and
4 increase the quadratic mean diameter of the stand.

5 (3) The Notice of Exemption, Form RM-73(1038i)(1/01/06), is
6 prepared, signed and submitted by an RPF to the Director. The RPF
7 shall provide current address and telephone number on the form.

8 (4) The RPF preparing the Notice of Exemption shall, upon
9 submission of the Notice of Exemption, provide a map of the area of
10 timber operations that complies with 14 CCR § 1034(x)(1),(3), (4),
11 (7), (8),(9), (10), (11), (12)and (14). This map shall be submitted
12 in place of the map required by 14 CCR § 1038.2(d).

13 (5) The RPF shall, upon submission of the Notice of Exemption,
14 include a description of the preharvest stand structure and a
15 statement of the postharvest stand stocking levels. The level of
16 residual stocking shall be consistent with maximum sustained
17 production of high quality timber products. The residual stand shall
18 consist primarily of healthy and vigorous dominant and codominant
19 trees from the preharvest stand. Trees retained to meet the basal
20 area stocking standards shall be selected from the largest trees
21 available on the project area prior to harvest. In no case shall
22 stocking be reduced below the following standards:

23 (A) Where the preharvest dominant and codominant crown
24 canopy is occupied primarily by trees greater than 14 in. dbh:

1 **[Coast]:**

2 1. On Site I lands at least 125 sq. ft. per acre of
3 basal area shall be left.

4 2. On Site II and III lands at least 100 sq. ft. per
5 acre of basal area shall be left.

6 3. On Site IV lands at least 75 sq. ft. per acre of
7 basal area shall be left.

8 4. On Site V lands, at least 50 sq. ft. per acre of
9 basal area shall be left.

10 **[Northern, Southern]:**

11 1. On Site I mixed conifer lands at least 125 sq. ft.
12 per acre of basal area shall be left, and on Site I land where greater
13 than 50% of the basal area is pine, at least 100 sq. ft. per acre of
14 basal area shall be left.

15 2. On Site II mixed conifer lands at least 100 sq.ft.
16 per acre of basal area shall be left, and on Site II lands where
17 greater than 50% of the basal area is pine, at least 75 sq. ft. per
18 acre of basal area shall be left.

19 3. On Site III mixed conifer lands at least 75 sq. ft.
20 per acre of basal area shall be left, and on Site III lands where
21 greater than 50% of the basal area is pine, at least 75 sq. ft. per
22 acre of basal area shall be left.

23 4. On Site IV and V mixed conifer lands, at least 50
24 sq. ft. per acre of basal area shall be left, and on Site IV and V
25 lands where greater than 50% of the basal area is pine at least 50 sq.

1 ft. per acre of basal area shall be left.

2 (B) Where the preharvest dominant and codominant crown
3 canopy is occupied by trees less than 14 in. dbh, a minimum of 100
4 trees per acre over 4 in. dbh shall be retained for site I, II, and
5 III. For site IV and V - 75 trees per acre over 4 in. dbh shall be
6 retained.

7 (6) The RPF shall, upon submission of the Notice of Exemption,
8 provide the selection criteria for the trees to be removed or the
9 trees to be retained. The selection criteria shall specify how the
10 trees to be removed, or how the trees to be retained, will be
11 designated. All trees to be harvested or all trees to be retained
12 shall be marked by, or under the supervision of, an RPF prior to
13 felling operations.

14 (7) The RPF shall, upon submission of the Notice of
15 Exemption, provide a Confidential Archaeological Letter which contains
16 all the information required for plans and Emergency Notices in 14 CCR
17 § 929.1(c)(2), (7), (8), (9), (10) and (11),
18 [949.1(c)(2), (7), (8), (9), (10) and (11), 969.1(c)(2), (7), (8), (9), (10)
19 and (11)] including site records as required pursuant to 14 CCR §§
20 929.1 (g) [949.1(g), 969.1(g)] and 929.5 [949.5 and 969.5]. The
21 Director shall submit a complete copy of the Confidential
22 Archaeological Letter, and two copies of any required archaeological
23 or historical site records, to the appropriate Information Center of
24 the California Historical Resource Information System, within 30 days
25 from the date of Notice of Exemption submittal to the Director.

1 Before submitting the Notice of Exemption to the Director, the RPF
2 shall send a copy of the Notice of Exemption to Native Americans
3 defined in 14 CCR § 895.1.

4 (8) Only trees less than 18 inches stump diameter, measured at
5 eight inches above ground level, may be removed except as follows:

6 (A) Within 500 feet of a legally permitted structure that
7 complies with the California Building Code, or in an area prioritized
8 as a shaded fuel break in a community wildfire protection plan
9 approved by a public fire agency, if the goal of fuel reduction cannot
10 be achieved by removing trees less than 18 inches stump diameter,
11 trees less than 24 inches stump diameter may be removed if that
12 removal complies with this section.

13 (9) Post harvest stand conditions shall not violate the
14 following canopy closure requirements:

15 (A) Minimum post treatment canopy closure of dominant and
16 codominant trees shall be 40 percent for east side pine forest types;

17 (B) Minimum post treatment canopy closure of dominant and
18 codominant trees shall be 50 percent for coastal redwood and Douglas-
19 fir forest types within ¼ mile from approved and legally permitted
20 structures that comply with the California Building Code (legal
21 structure). Such legal structures shall be within or adjacent to a
22 community listed in the "California Fire Alliance list of Communities
23 at Risk" (copyright date 2003 on file in the official rulemaking file
24 and incorporated by reference) and have densities greater than 1
25 structure per 20 acres;

1 (C) Minimum post treatment canopy closure of dominant and
2 codominant trees shall be 50 percent for coastal redwood and Douglas-
3 fir forest types within 500 feet of a legal structures outside the
4 area referenced in 14 CCR § 1038 (i) (9) (B);

5 (D) Minimum post treatment canopy closure of dominant and
6 codominant trees shall be 60 percent for coastal redwood and Douglas-
7 fir forest types outside areas referenced in 14 CCR § 1038 (i) (9) (B)
8 and (C);

9 (E) Minimum post treatment canopy closure of dominant and
10 codominant trees shall be 50 percent for mixed conifer and all other
11 forest types.

12 (10) Ladder and surface fuels shall be removed to achieve a
13 minimum clearance distance of eight feet, measured from the base of
14 the live crown of the postharvest dominant and codominant trees to the
15 top of the surface fuels.

16 (11) Surface fuels in the harvest area, including logging slash
17 and debris, low brush, and deadwood, that could promote the spread of
18 wildfire, shall be treated to achieve the goal of an average of four
19 foot maximum flame length under average severe fire weather
20 conditions. Treatments shall include chipping, removing, piling,
21 burning or other methods necessary to achieve the goal. Treatments,
22 except for burning operations, shall be done within 120 days from the
23 start of timber operations. Burning operations shall be completed by
24 April 1 of the year following surface fuel creation. Treatment of
25 surface fuels by burning shall be exempt from the one year time

1 limitations described under 14 CCR § 1038.1

2 (12) Fuel treatments conducted under 14 CCR § 1038(i)(8),(9),
3 (10) and (11) shall be achieved on at least 80 percent of the treated
4 area.

5 (13) Timber operations shall comply with the limits established
6 in 14 CCR § 1038, subsections (b) (1) through (10).

7 (14) At least one inspection conducted by the Director shall be
8 made after completion of operations.

9 (15) 14 CCR § 1038(i) shall expire on January 1, 2008.

10 Note: Authority cited: Sections 4551, 4553, 4584 Public Resources
11 Code. Reference: Sections 4527, 4584, Public Resources Code. EPIC v
12 California Department of Forestry and Fire Protection and Board of
13 Forestry (1996) 43 Cal. App.4th 1011.

14
15 **Amend 14 CCR §1038.2 Exemption Form**

16 A person submitting an exemption under 14 CCR 1038 shall submit to the
17 Director a notice of proposed timber operations, prior to commencement
18 of timber operations, on a form provided by the Department. The form
19 shall contain the following information:

20 (a) Type of operation to be conducted.

21 (b) Names, address, and telephone numbers of the timber owner,
22 timberland owners, and timber operator.

23 (c) Legal description of the location of the timber operation.

24 (d) A 7½ minute quadrangle map or its equivalent showing the
25 location of the timber operation.

1 (e) In addition to (a) through (d) above, the following shall be included
2 for exemptions conducted under 14 CCR § 1038~~(d)~~(c):

3 (1) The tentative commencement date of timber operations.

4 (2) A certification by the timber operator or timberland owner that
5 the city or county within which the exemption is located has been contacted
6 and the exemption is in conformance with all city or county regulatory
7 requirements.

8 (3) A notification to the landowner stating the fuel treatment
9 requirements and enforcement procedures under this exemption.

10 (4) A signature of the landowner certifying that they are the
11 landowner and have read and understand the information on the
12 exemption form.

13 (5) A larger scale map such as an assessor parcel map showing
14 the location of the timber operation.

15 (f) In addition to (a) through (c) above, the following shall be
16 included for exemptions conducted under 14 CCR § 1038(i):

17 (1) Name, address, telephone and license number of the
18 registered professional forester that prepared and submitted the
19 exemption notice.

20 (2) A description of the pre-harvest stand structure and a
21 statement of the post-harvest stand stocking levels.

22 (3) A description of the selection criteria for the trees to be
23 removed or the trees to be retained. The selection criteria shall
24 specify how the trees to be removed, or how the trees to be retained,
25 will be designated.

(4) A certification that the exemption notice has been prepared
and submitted by a registered professional forester.

Note: Authority cited: Sections 4551, 4553, 4584 Public Resources
Code. Reference: Sections 4527, 4584, Public Resources Code.

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