**Board of Forestry and Fire Protection**

**FOREST RESILIENCE EXEMPTION (AB 2276)**

**Title 14 of the California Code of Regulations**

**Division 1.5, Chapter 4,**

**Subchapter 7, Article 2**

**§ 1038.3 Forest ~~Fire Prevention~~ Resilience Exemption**

Persons who are engaged in the ~~cutting or removal~~ 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 flammable materials to reduce fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns are exempt from the plan preparation and submission requirements (PRC § 4581) and from the completion report and Stocking report requirements (PRC §§ 4585 and 4587) of the FPA. Timber Operations conducted under any notice of exemption described herein shall be limited to one (1) year from the date of receipt by the Director, and shall comply with all operational provisions of the FPA and District Forest Practices Rules applicable to “Timber Harvest Plan”, “THP”, and “Plan” definitions per 14 CCR § 895.1. This exemption shall be known as the Forest ~~Fire Prevention~~ Resilience Exemption. Preparation and submittal of notices of exemption under this section, or Timber Operations conducted thereunder, shall comply with the following conditions, exceptions, or requirements as described.

1. Comply with the requirements of Title 14 CCR §§ 1038.1(c)(5), (6), (7), and (9) through (12) inclusive.
2. This exemption shall only be used on Timberlands that are within the most recent version of the Department's Fire Hazard Severity Zone Map, which can be found on the Department's website: https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/, that shows the exemption will occur in areas determined to be moderate, high, or very high fire threat areas.
3. The Harvest Area shall not exceed three hundred (~~300~~500) acres.
4. **(1)** Slash and Woody Debris shall be treated to achieve a maximum post-harvest depth of eighteen (18) inches above the ground except within one hundred fifty (150) feet from any point of an approved and legally permitted structure that complies with the California Standards Building Code.

**(2)** All surface fuels within one-hundred-fifty (150) feet of an Approved and Legally Permitted Structure, which could promote the spread of wildfire, shall be chipped, burned, or removed within forty-five (45) days from the start of Timber Operations.

**(3)** All fuel treatments shall be completed within one (1) year from the date the Director receives the notice. This requirement does not apply to burning, which instead shall be completed within two (2) years from the date the Director receives the notice.

**(4)** The requirements of this subsection shall not supersede the requirements of PRC § 4291.

**(e)** The construction or reconstruction of roads, other than Temporary Roads, is prohibited. The construction or reconstruction of Temporary Roads on slopes greater than thirty (30) percent is prohibited. The construction or reconstruction of Temporary Roads on slopes of thirty (30) percent or less shall be allowed if all of the following conditions are met:

**(1)** Temporary Roads or Landings shall not be located on Unstable Areas.

**(2)** Temporary Roads shall be single lane in width.

**(3)** Temporary Roads shall not be located across a Connected Headwall Swale.

**(4)** Construction or re-construction of Temporary Roads, Landings or Watercourse crossings shall not occur during the Winter Period.

**(A)** Roads and Landings used for log hauling or other heavy equipment uses during the Winter Period shall occur on a Stable Operating Surface and, if necessary, be surfaced with rock to a depth and quantity sufficient to maintain a Stable Operating Surface. No operation shall be permitted on roads that are not subject to Hydrological Disconnection, or which exhibit Saturated Soil Conditions.

**(B)** Timber Operations during the Winter Period shall comply with the applicable Rule sections under 14 CCR § 914.7 [934.7, 954.7](c)(1)&(2).

**(C)** Use of Temporary Roads shall comply with the operational provisions of 14 CCR § 923 [943, 963] et seq.,

**(D)** No Logging Road or Landings construction, or reconstruction, activities shall occur within two-hundred (200) feet of Class I and Class II Watercourses, or within fifty (50) feet of a Class III Watercourse.

**(5)** Temporary Road construction or reconstruction, shall be limited to no more than two (2) miles of road per ownership within a single Planning Watershed (CALWATER 2.2) per any five (5) year period.

**(A)** For exemptions that are less than forty (40) acres, all Temporary Roads constructed and/or reconstructed shall not exceed a cumulative length of three-hundred (300) feet.

**(B)** For exemptions between forty (40) and eighty (80) acres, this standard shall not exceed three-hundred (300) to six-hundred (600) feet, as determined on a pro rata basis by total acreage affected by the exemption.

**(C)** For exemptions over eighty (80) acres, this standard shall not exceed six-hundred (600) feet.

**(D)** Temporary Roads constructed or reconstructed under this section shall not be connected to other Temporary Roads constructed under previous or subsequent exemptions filed pursuant to this section.

**(E)** Prior to completion of Timber Operations, all Temporary Roads constructed or reconstructed under this section shall undergo Abandonment in a manner which uses protective measures that will effectively remove them from the Permanent Road Network, as defined in 14 CCR § 895.1.

**(F)** No tree larger than thirty~~-six~~ (3~~6~~0) inches in diameter at stump height, measured eight (8) inches above ground level, shall be removed for the purposes of Temporary Road construction or reconstruction as it applies to this exemption. ~~Trees between thirty (30) and thirty-six (36) inches in diameter at stump height, measured eight (8) inches above ground level, may be removed for the purposes of Temporary Road construction or reconstruction when no other feasible option exists for Temporary Road construction activities.~~

**(f)** The RPF responsible for submission of the notice of exemption shall designate Temporary Road locations, Landing locations, Tractor Road crossings of Class III Watercourses, Unstable Areas, or Connected Headwall Swales on the ground prior to submission of the notice of exemption.

**(g**) The QMD of trees greater than eight (8) inches dbh in the Harvest Area shall be increased in the post-harvest stand. The submitted notice of exemption shall report the expected post-harvest increase in QMD.

**~~(h)~~** ~~Except within constructed or reconstructed Temporary Road prisms, only trees less than thirty (30) inches in stump diameter, measured eight (8) inches above ground level, may be removed.~~

**(~~i~~h)** All trees that are harvested or all trees that are retained shall be marked or sample marked by, or under the supervision of, an RPF before felling operations begin. Sample marking shall be limited to homogeneous forest stand conditions typical of plantations. When trees are sample marked, the prescription for unmarked areas shall be in writing and the sample mark area shall include at least ten (10) percent of the harvest area to a maximum of twenty (20) acres per stand type which is representative of the range of conditions present in the area.

**(~~j~~i)** Within the coast district, If the preharvest crown canopy of dominants and codominants is occupied by trees less than fourteen (14) inches in dbh, a minimum of one hundred (100) trees over four (4) inches in dbh shall be retained per acre for Site I, II, and III lands, and a minimum of seventy-five (75) trees over four (4) inches in dbh shall be retained per acre for Site IV and V lands.

(j) Within the northern district and southern district, if the preharvest dominate and codominate crown canopy is occupied by trees less thean 14 inches in dbh, a minimum of 65 trees over four (4) inches in dbh, shall be retained.

**(k)** The board may adopt specific regulations for the removal of dead and dying trees in amounts less than 10 percent of the average volume per acre for trees up to 36 inches in diameter at breast height. Regulations adopted by the board shall consider safety, fuel hazard abatement, mortality capture, the adequacy and retention of wildlife trees, especially those trees over 30 inches in diameter at breast height, and standards of enforceability for the department. All trees over 30 inches in diameter at breast height that are harvested pursuant to this paragraph shall be marked by, or under the supervision of, a registered professional forester before felling. The registered professional forester shall consult with the director before felling any dead or dying trees in excess of 30 inches in diameter at breast height.

**(l)** The six largest trees per acre within the boundaries of a notice of exemption submitted pursuant to this subdivision shall not be harvested.

**(m**) No trees of the genus Quercus that are greater than 22 inches in diameter at breast height shall be harvested under a notice of exemption submitted pursuant to this subdivision, except for those trees that need to be removed to mitigate safety.

**(~~k~~n)** The following canopy, retention, and spacing standards shall be achieved on at least eighty (80) percent of the Harvest Area:

**(1)** ~~Minimum post treatment canopy closure shall comply with the standards of 14 CCR § 1052.4(d)(3)(A)~~ Minimum post treatment Canopy cover of Dominant and Codominant trees shall be 30% for east side pine forest types and 40% for coastal redwood forest, Douglas-fir forest, mixed conifer forest and all other forest types.

**~~(2)~~** ~~Post treatment stand shall contain no more than two-hundred (200) trees per acre over three (3) inches in dbh.~~

**~~(3)~~** ~~Vertical spacing shall be achieved by treating dead fuels, excluding dead branches on the trees retained for Stocking, to a minimum clearance distance of eight (8) feet measured from the base of the live crown of the post-harvest Dominants and Codominants to the top of the dead surface or ladder fuels, whichever is taller~~.

**(2)** Slash and woody debris within 50 feet of a public road or critical infrastructure, as defined by the board, shall be chipped, burned, or removed.

**(~~l~~o*)*** Helicopter Yarding shall be prohibited.

**(m)** The RPF shall comply with 14 CCR § 1035.2, relating to interaction between the LTO and the RPF.

**(~~n~~p)** All Timber Operations conducted in the Lake Tahoe Region, if applicable, ~~must~~shall have a valid Tahoe Basin Tree Removal Permit (as defined by the TRPA) or shall be conducted under a valid TRPA Memorandum of Understanding, when such a permit is required by TRPA.

**(~~o~~q)** Upon submission of the notice of exemption, a Confidential Archaeological Letter pursuant to 14 CCR § 929.1 [949.1; 969.1] must be provided to the Director and the RPF shall send a copy of the notice of exemption to Native Americans as defined in 14 CCR § 895.1.

**(~~p~~r)** No Timber Operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a Significant Archaeological or Historical Site may be conducted (information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation),

**(~~q~~s)** If a notice of exemption has been accepted by the Director and will use pesticides or herbicides on the Harvest Area within one (1) calendar year of the date of acceptance, the timberland owner shall notify the appropriate regional water quality control board within ten (10) days prior to application of pesticides or herbicides.

**(~~r~~t)** Subsequent to the completion of Timber Operations operating under this section, the Department shall conduct an onsite inspection to determine compliance with this section. The Department shall notify the appropriate RWQCB, the CDFW, and the CGS seven (7) days prior to conducting the onsite inspection.

**(~~s~~u)** The notice of exemption shall be prepared, signed, and submitted by an RPF. The RPF shall be retained to oversee all construction or reconstruction of Roads and/or Landings, and provide for necessary mitigation to avoid potential impacts.

**(~~t~~v)** The notice of exemption shall be submitted to the Director, on a form provided by the Department, prior to the commencement of Timber Operations. The form shall contain the following information:

**(1)** Name(s), address, and telephone number(s) of the Timber Owner(s), timberland owner(s), and Timber Operator;

**(2)** Name, address, and telephone number and license number of the RPF preparing and submitting the notice of exemption;

**(3)** Legal description of the location of the Timber Operations;

**(4)** The tentative date of commencement of Timber Operations;

**(5)** A signature of the landowner certifying that they are the landowner and have read and understand the information contained within the notice of exemption;

**(6)** A description of preharvest stand structure; and

**(7)** An estimate of pre and post-harvest QMD and certification by the RPF that, in their professional judgment, post-harvest slash treatment and stand conditions will lead to more moderate fire behavior.

**(~~u~~w)** The RPF shall, upon submission of the notice of exemption:

**(1)** Certify that the level of residual Stocking shall be consistent with maximum sustained production of high quality timber products. The residual stand shall consist primarily of healthy and vigorous Dominants and Codominants from the preharvest stand. Trees retained to meet the basal area stocking standards shall be selected from the largest trees available on the project area prior to harvest. In no case shall Stocking be reduced below the standards found within 14 CCR § 913.3 [933.3, 953.3] (a). Commercial Thinning Stocking Standards or 14 CCR § 913.2 [933.2, 953.2] (a). Selection Stocking Standards.

**(2)** The registered professional forester responsible for preparing the notice of exemption shall identify the designated postharvest stocking within the notice of exemption. The selected stocking shall be applicable to, and consistent with, silviculture that would apply to the preharvest stand condition provided pursuant to subparagraph (A).

**(3)** Additional information on preharvest stand conditions, including, but not limited to, stand ages, stand structure, past management activities, and landowner goals and objectives shall also be provided by the registered professional forester preparing and submitting the exemption that substantiates the selection of postharvest stocking.

**(~~2~~4)** Affirm that the construction or reconstruction of each Temporary Road is necessary to provide access to Harvest Areas when no other feasible alternative exists. The notice shall include the total number of and cumulative length of Temporary Roads being constructed and/or reconstructed.

**(~~3~~5)** Provide the selection criteria for the trees to be removed or the trees to be retained. In the development of these criteria, and the fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations. The selection criteria shall specify how the trees to be removed, or how the trees to be retained, will be designated.

**(~~v~~x)** The Director shall notify the submitter of the date of the Director's receipt of the notice of exemption. Timber Operations pursuant to the notice of exemption may not commence for ten (10) working days from the date of the Director's receipt of the notice of exemption unless the delay is waived by the Director. If the notice of exemption is not complete and accurate, the Director shall notify the submitter within five (5) working days from the date of the Director's receipt, and the Timber Operations may not commence. The Director shall determine whether the notice of exemption is complete and accurate, and if so, shall send a copy of a notice of acceptance to the submitter; provided, however, if the Director does not act within ten (10) working days of receipt of the notice of exemption, Timber Operations may commence. Timber Operations may not be conducted without a copy of the Director's notice of acceptance of the notice of exemption at the operating site, except where the Director has failed to act within the ten (10) working-day review period.

**(1)** Upon receipt of the submitted notice of exemption, the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the CDFW, the appropriate RWQCB, and the CGS.

**(~~w~~y)** Before beginning Timber Operations, the RPF responsible for submittal of the notice of exemption shall notify the Department, the appropriate RWQCB, the CDFW, and the CGS of the actual commencement date of operations. The notification, by telephone, mail, or email, shall be directed to the appropriate agency personnel and contact information for the appropriate agency personnel shall be provided by the Department on the notice of exemption form. If the notification is provided by mail, Timber Operations may not commence for three (3) days after the postmark date of notification.

**(~~x~~z)** This section will expire on January 1, ~~2026~~2031

NOTE: Authority cited: sections 4551, 4553 and 4584, Public Resources Code. Reference: section 4527, 4527.5, 4584 and 4584.2, public Resources code.