

BOARD OF FORESTRY AND FIRE PROTECTION

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Board of Forestry and Fire Protection Workshop on Less than 3 Acre Conversions and Marijuana Cultivation

Time: 9:00 a.m.
 September 28, 2016

Location: Ag Center Auditorium
 5630 South Broadway
 Eureka, California

GOAL:

To provide information to the Board and interested parties pertaining to environmental and regulatory issues surrounding the cultivation of marijuana on 'timberlands' (PRC 4526), including the use of less than three acre conversion exemptions (14 CCR § 1104.1). Ultimately, the Board will use the information gathered during the workshop to develop a "Problem Statement", should a problem within the Board's jurisdiction be identified.

Agenda

9:00 a.m.	Introduction: Matt Dias, Executive Officer, State Board of Forestry and Fire Protection
9:15 a.m.	Presentation: CAL FIRE; Speakers – John Ramaley, Cascade and Southern Region Forest Practice Manager; Ben Rowe, SHU Unit Forester; Dan Dresselhaus, Forester II
9:35 a.m.	Presentation: North Coast Regional Water Quality Control Board, Speaker – Joshua Curtis, Planning, Stewardship, and Compliance Assurance Division Chief
9:55 a.m.	Presentation: Department of Fish and Wildlife, Speaker - Scott Bauer, Environmental Scientist
10:15 a.m.	Presentation: County of Humboldt, Speaker- Steven Lazar, Senior Planner, Humboldt County Planning & Building Department
10:30 a.m.	Break
10:45 a.m.	Presentation: County of Trinity, Speaker - Karl Fisher, Chairman of the Board of Supervisors
11:05 a.m.	Presentation: County of Calaveras, Speakers - Steve Wilinsky, Past County Supervisor
11:20 a.m.	Presentation: Environmental Protection Information Center, Speaker - Natalynne DeLapp, Executive Director
11:40 a.m.	Presentation: Landowner/Cultivator, Speaker - Patrick Murphy, Emerald Family Farms
12:00 pm	Lunch (not provided)
1:00 pm	Questions and Discussion
3:00 pm	Adjourn

Please respect the following requests to allow for a productive workshop:

- 1) Turn ringers off on cell phones and exit the meeting room prior to taking calls.**
- 2) Be respectful of other speakers and ideas that they may bring forth.**
- 3) Be sure to preface your presentation and/or questions by clearly stating your name and affiliation. This meeting is being both recorded and broadcast via webinar. An introduction of each speaker will facilitate the webinar broadcast for remote participants.**
- 4) Hold questions for presenters until the question and answer period after lunch.**
- 5) Be concise in question and answer period. The Board wants to assure that everyone who wishes to speak should have the opportunity to do so.**
- 6) The last 20 minutes of the meeting shall be used for the Board and workshop participants to identify point on common interest that may be used to develop a strong “Problem Statement”.**

NOTES:

14 CCR §1104 Operations Requiring Conversion Permit

Except as exempted by Sec. 1104.1 and 1104.2 of this article a timberland conversion permit issued by the Director is required for conversion of timberland as defined in Sec. 1100. Issuance of the Timberland Conversion Permit to the timberland owner must be completed before conversion operations begin. "Conversion operations" include final immediate rezoning of timberland production zone lands, and timber operations as defined in PRC 4527 on non-timberland production zone timberlands.

14 CCR § 1104.1 Conversion Exemptions

Timber operations conducted under this subsection shall be exempt from conversion permit and timber harvesting plan requirements of this article except no tree that existed before 1800 A.D and is greater than sixty (60) inches in diameter at stump height for Sierra or Coastal Redwoods, and forty-eight (48) inches in diameter at stump height for all other tree species shall be harvested unless done so under the conditions or criteria set forth in subsection 1104.1 (i).

Timber operations shall comply with all other applicable provisions of the Z'berg-Nejedly Forest Practice Act, regulations of the Board and currently effective provisions of county general plans, zoning ordinances and any implementing ordinances. The Notice of Conversion Exemption Timber Operations shall be considered synonymous with the term "plan" as defined in 14 CCR 895.1 when applying the operational rules and regulations of the Board.

(a) This conversion exemption is applicable to a conversion of timberland to a non-timber use only, of less than three acres in one contiguous ownership, whether or not it is a portion of a larger land parcel and shall not be part of a THP. This conversion exemption may only be used once per contiguous land ownership. No person, whether acting as an individual, acting as a member of a partnership, or acting as an officer or employee of a corporation or other legal entity, may obtain more than one exemption pursuant to this section in a five-year period. If a partnership has as a member, or if a corporation or any other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this section, means an individual, partnership, corporation, or any other legal entity.

(1) A Notice of Conversion Exemption Timber Operations (notice) must be prepared by an RPF and submitted to the Director. The notice shall contain the following:

(A) The names, addresses, and telephone numbers of the timber owner, owner of the timberland to be converted, RPF, timber operator, and the submitter of the Notice of Conversion Exemption Timber Operations;

(B) Legal description of the area where the timber operation is to be conducted, showing section, township, range, county and assessor parcel number;

(C) Maps showing the ownership boundaries, the location of the timber operation, boundaries of the conversion, access routes to operation, location and classification of all watercourses, and landing locations;

(D) Incorporation of a signed and dated statement from the authorized designee of the County Board of Supervisors stating that the conversion is in conformance with all county regulatory requirements, including county public notice requirements. When counties do not have an authorized designee, the RPF shall certify that the county has been contacted and the conversion is in conformance with county regulatory requirements (this may be incorporated into the notice);

(E) Incorporation of a statement by the owner of the timberland to be converted:

1. certifying that this is a one-time conversion to non-timberland use,

2. certifying that after considering the owner's own economic ability to carry out the proposed conversion and the feasibility evaluation required by 14 CCR § 1104.1(a)(6) that there is a "bona fide

intent", as defined in 14 CCR § 1100 (b), to convert,

3. specifying what the non-timberland use will be after conversion, and

4. certifying and declaring under penalty of perjury that he/she whether acting as an individual, acting as a member of a partnership, or acting as an officer or employee of a corporation or other legal entity, has not obtained an exemption pursuant to this section in the last five years unless a waiver has been granted pursuant to 14 CCR § 1104.1(a)(9); and

(F) signature of the submitter, timberland owner responsible for the conversion, the timber operator, and the RPF.

(2) The following conditions apply to conversion exemption timber operations:

(A) All timber operations shall be complete within one year from the date of acceptance by the Director.

(B) All conversion activities shall be complete within two years from the date of acceptance by the Director unless under permit by local jurisdiction. Failure to timely complete the conversion shall require compliance with stocking standards of the PRC 4561 and stocking report requirements of Forest Practice Act and Board regulations.

(C) The RPF or supervised designee shall visit the site and flag the boundary of the conversion exemption timber operation and flag any applicable WLPZs and equipment limitation zones.

(D) This section refers to slash and woody debris resulting from timber operations associated with conversion exemptions. The timber operator shall be the responsible party for the treatment of logging slash and woody debris. Responsibility for treatment of logging slash and woody debris may be assumed by the landowner, provided that the landowner acknowledges in writing to the Director at the time of notice such responsibility and specific slash and woody debris treatment requirements and timing.

(1) Unless otherwise required, slash greater than one inch in diameter and greater than two feet long, and woody debris, except pine, shall receive full treatment no later than April 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.

(2) All pine slash three inches and greater in diameter and longer than four feet must receive initial treatment if it is still on the parcel, within 7 days of its creation.

(3) All pine woody debris longer than four feet must receive an initial treatment prior to full treatment.

(4) Initial treatment shall include limbing woody debris and cutting slash and woody debris into lengths of less than four feet, and leaving the pieces exposed to solar radiation to aid in rapid drying.

(5) Full treatment of all pine slash and woody debris must be completed by March 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.

(6) Full slash and woody debris treatment may include any of the following:

a. burying;

b. chipping and spreading;

c. piling and burning; or

d. removing slash and woody debris from the site for treatment in compliance with

(a)-(b).

Slash and woody debris may not be burned by open outdoor fires except under permit from the appropriate fire protection agency, if required, the local air pollution control district or air quality management district. The burning must occur on the property where the slash and woody debris originated.

(7) Slash and woody debris, except for pine, which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying by April 1 of the year following its creation. Pine slash and woody debris which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying within seven days of its creation.

All treatment work must be completed prior to the expiration date for the conversion exemption.

(8) Any treatment which involves burning of slash or woody debris shall comply with all state and local fire and air quality rules.

(9) This section does not supersede more restrictive treatments or time frames within a Forest district or subdistrict.

(E) Timber operations may be conducted during the winter period. Tractor operations in the winter period are allowed under any of the following conditions:

1. During dry, rainless periods but shall not be conducted on saturated soil conditions that may produce significant sediment discharge. Erosion control structures shall be installed on all constructed skid trails and tractor roads prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

2. When ground conditions in the conversion exemption area and appurtenant roads satisfy the "hard frozen" definition in 14 CCR 895.1.

3. Over-snow operations where no soil disturbance occurs.

(F) No timber operations within a WLPZ unless specifically approved by local permit (e.g. County, City).

(G) The timber operator shall not conduct timber operations until receipt of the Director's notice of acceptance. Timber Operations shall not be conducted without a valid on-site copy of the Director's notice of acceptance of operations and a copy of the Notice of Conversion Exemption Timber Operations as filed with the Director.

(H) No sites of rare, threatened or endangered plants or animals shall be disturbed, threatened or damaged and no timber operations shall occur within the buffer zone of a sensitive species as defined in 14 CCR 895.1.

(I) No timber operations on significant historical or archeological sites.

(J) The RPF and the timber operator shall meet (on-site, or off-site) if requested by either party to ensure that sensitive on-site conditions and the intent of the conversion regulations such as, but not limited to, slash disposal, will be complied with during the conduct of timber operations.

(3) A neighborhood notification of conversion exemption timber operations shall be posted on the ownership visible to the public by the RPF or supervised designee, at least 5 days prior to the postmark date of submission of the notice of Conversion Exemption Timber Operations to the Director. The date of posting shall be shown on the neighborhood notice. In addition, immediately prior to the submission of the exemption to the Director, the landowner shall mail a letter to adjacent landowners within 300 feet of the boundaries of the exemption, and to Native Americans, as defined in 895.1 notifying them of the intent to harvest timber. The mailed letter of notice and the posted notice shall contain the following information on a form prepared by the RPF:

(A) the name, address and telephone number of the timberland owner, the timber operator, the agency of the county responsible for land use changes and the designated representative; if any, and the RPF;

(B) the location of the project, parcel number, street address, section, township and range, and;

(C) a statement explaining that this is a conversion from timberland use to a new land use, what the new land use will be, and that the maximum size is less than three acres.

(4) The Director shall determine if the Notice of Conversion Exemption Timber Operations is complete and accurate within fifteen days from the date of receipt.

(A) If the Notice of Conversion Exemption Timber Operations is not complete and accurate it shall be returned to the submitter identifying the specific information required. When found complete and accurate, the Director shall immediately send a notice of acceptance of operations to the submitter.

(5) The timberland owner shall, within one month from the completion of conversion exemption timber operations, which includes all slash disposal work, submit a work completion report to the Director.

(6) The timberland owner shall, using the services of an RPF to the extent the information required is within the scope of professional forestry practice, provide information documenting that the conversion to the stated non-timber use is feasible based upon, at a minimum, the following:

- (A) the extent of the vegetation removal and site preparation required for the conversion;
- (B) the suitability of soils, slope, aspect, and microclimate for the stated non-timber use;

(7) The Department shall provide for inspections, as needed, to determine that the conversion was completed.

(8) The notice shall expire if there is any change in timberland ownership.

(A) If the conversion has not been completed, the timberland owner on the notice shall notify the Department of the change in timberland ownership on or before 5 calendar days after a change in ownership.

(B) If operations have been conducted, but not completed under the exemption, the timberland owner on the notice shall notify the new timberland owner at least 15 days prior to the sale of the timberland of the requirements under 14 CCR § 1104.1(a)(8)(C).

(C) If operations have been conducted, but not completed under the exemption, the new timberland owner shall:

1. submit a new notice, or
2. comply with the following:
 - a. harvest no additional timber;
 - b. meet stocking requirements of 14 CCR § 1104.1(a)(2)(B);
 - c. dispose of the slash created under the exemption activities according to

14 CCR § 1104.1(a)(2)(D);

d. provide erosion control for skid trails, roads, landings, and disturbed areas as required by the Forest Practice Rules.

e. submit a report within 90 days of the change of timberland ownership that items a through d above were completed.

(9) A timberland owner may request a waiver to the five-year limitation described in 14 CCR § 1104.1(a). The Director may grant the waiver upon finding that one of the following conditions exist:

(A) 1. the construction of a building approved by the appropriate county/city permitting process is listed in the accepted Notice of Conversion Exemption Timber Operations as the non-timberland use after the conversion, and

2. the timberland owner demonstrates to the Director that substantial liabilities for building construction have been incurred on each conversion exemption that the timberland owner has received in the last 5 years at the time the waiver is requested, and

3. operations conducted on all exemptions issued to the timberland owner within the past 5 years, prior to the time the waiver is requested, have been conducted in a manner that meets or exceeds the intent of the Act and rules or any corrective work required by the Director has been satisfactorily completed.

(B) the change of ownership which caused the previous notice to expire was not the result of the sale of the timberland and the new timberland owner provides information demonstrating that the imposition of the 5-year limitation described in 14 CCR § 1104.1(a) would impose an undue hardship on the timberland owner.

(C) the notice has expired and no operations have been conducted.

(D) The timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the 5-year limitation described in 14 CCR § 1104.1(a) would impose an undue hardship on the timberland owner.

