

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations**

[Notice Published June 23, 2006]

15 - Day Notice of Public Hearing for Modifications to Proposed Regulation

Lake Tahoe Region Exemption, 2006

The Board of Forestry and Fire Protection (Board) is proposing adoption of amendments to a previously noticed regulation of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

Adopt:

895 Abbreviations Applicable Throughout Chapter.

895.1 Definitions.

Amend:

1038 and 1038 (f) Exemption.

PUBLIC HEARING DATE

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the California State Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed above which were the subject of a regulatory hearing on March 8, 2006. The Board will hold a public hearing to adopt final rule language. **The public hearing is to be held at 8:00 a.m. on Wednesday, July 12, 2006, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California.**

PUBLIC COMMENTS

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, July 10, 2006. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board of Forestry and Fire Protection (Board) held a public hearing on March 8, 2006, to amend Forest Practice Rules (FPR) under 14 CCR, Chapter 4, Subchapter 7, Article 2, Section 1038, Exemptions (and other related sections). The amendments cover operational requirements for minor timber harvesting in the Lake Tahoe Region. These timber harvesting activities are exempt from the filing of a Timber Harvest Plan and are known as an "Exemption".

The original and modified proposal addresses harvesting of live trees in a Watercourse and Lake Protection Zones (WLPZ) and Streamside Environment Zones (SEZ) in the Lake Tahoe Region for purposes of reducing fire hazards. The proposal also creates a consistent set of regulations for fire hazard reduction and removal of dead/dying trees in the Region. Under the proposal, parties to the exemption would need to obtain a Tahoe Tree Removal Permit issued by the Tahoe Regional Planning Agency (TRPA) and obtain certification by the Lahontan Regional Water Quality Board (LRWQCB) for certain harvesting operations.

This amendment is currently adopted by the Board as an emergency regulation and is in effect. The permanent adoption of the regulation is considered regulatory relief because the rule increases the locations where hazard reduction treatments can occur under an Exemption.

During the March 8, 2006, hearing the Board received comments from the public both in writing and in testimony. The Board considered all written and oral comments before them at the hearing. The Board directed staff during the hearing to obtain additional information from the LRWQCB and provide potential changes to final regulatory language. After consulting with the LRWQCB, CDF Forest Practices staff, the public, and the Tahoe Regional Planning agency, staff presented changes to the Board on June 6, 2006. On June 8, 2006, the Board directed staff to issue a notice of public hearing for rulemaking (GC § 11346.8(c)) with changes as presented to the Board on June 6, 2006. The Board may adopt any individual proposed change, a selected group of the proposed changes, or all of the proposed changes. The means of identifying the proposed changes is stated later in this notice.

The revisions made to the originally proposed rules included in this notice are all sufficiently related to the original rule proposal. The changes generally include:

- Elimination of redundant terminology and inclusion of clearer terminology and phases;
- Reordering of rule subsections to consolidate watercourse operational requirements;
- Deletion of Option 1.1 which set a 20 acre maximum parcel size for exemption conducted under this section;
- Deletion of exempt activities authorized under 4584 (k), known as the Forest Fire Prevention Exemption, from inclusion of these rules because of statutory conflicts;

- Deletion of exempt activities authorized under 4584 (f), harvesting activities on State Parks lands, because of their existing regulatory exclusion from the Forest Practice Act;
- Deletion of Option 2.2 in favor of using more concise and clear terms of vegetation authorized to be removed from a watercourse area.

These revisions are expected to improve implementation and interpretation of the rule, reduce confusion, and provide adequate environmental oversight and protection to watercourses and other resources during timber harvesting activities.

PURPOSE AND NECESSITY OF MODIFICATIONS TO TEXT OF PROPOSED REGULATION

The specific purpose of the proposed amendment is to 1) revise the Tahoe exemption to allow removal of live vegetation from WLPZ/SEZs in the Lake Tahoe Region following certification by cooperating agencies; 2) require specific exempt timber harvesting activities conducted in the Lake Tahoe Region to obtain a TRPA permit prior to submitting the exemption form to CDF; and 3) add a new definition and abbreviation specific to Lake Tahoe.

The specific changes from the proposal originally noticed on January 20, 2006 are as follows:

Section 895.1: Grammatical edit.

Sections 1038: Grammatical and organizational edits to the list of projects subject to section 1038 (f).

Sections 1038 (f) Option 1.1 and Option 2.1: Option 1.1 was deleted and Option 1.2 is proposed. Option 1.1 was deleted because it would have limited exemption activities to parcels less than 20 acres and confine exempt activities to removal of dead, dying or diseased trees. The Board’s goals for this exemption are to provided a common set of operational requirements and the ability to remove live trees from SEZs for a wider variety of hazard reduction projects regardless of parcel size.

Option 2.1 was further amended to deleted exempt activities authorized under PRC 4584 sections (f) and (k) from the 1038 (f) requirements. PRC 4584 (k), know as the Forest Fire Prevention Exemption, was deleted from inclusion of these rules because of statutory conflicts restricting the removal of live trees from SEZ. Inclusion of this exemption would violate the statutory limitation on operations in SEZs.

Exempt activities on State Park lands authorized under 4584 (f) was deleted because of their regulatory exclusion from the Forest Practice Act. Existing regulations under Section 1038.4 do not require State Parks or the USFS to be subject to the Forest Practices Act. These entities conduct independent CEQA or National Environmental Policy Act environmental evaluation prior to their harvesting operations.

Section 1038(f) (2): This subsection was amended to incorporate grammatical and organizational edits. Organizational edits involved combining most watercourse-related tree removal operational requirements previously listed in the original proposal in various subsections into this section.

Subsection 1038(f) (4): Amendments were made to delete redundant language, and focus the subsection on operational requirements during the winter period. Section now specifies that the only heavy equipment operations during winter period are qualifying over snow operations or use of approved low impact equipment.

Subsection 1038(f)(7): This subsection addresses harvest of live vegetation from WLPZs/ SEZs. Option 2.2 was deleted and Option 1.2 was amended. Amendments to Option 1.2 include elimination of redundant language and clarification of the type of vegetation which can be removed from an SEZ. Option 2.2 was no longer needed when redundant language was eliminated and terminology clarifications were made.

Subsection 1038(f)(12): Clarification was added to better define significant historical or archeological sites to be avoided during timber operations.

Subsection 1038(f)(14): This subsection was deleted as it is redundant to identical language in section 1038.1 which applies to all exemptions.

Subsection 1038(f) (15): This subsection was renumbered as a result of deletion of the originally proposed subsection 1038(f) (14). An additional Timber Operator notification to CDF requirement was added. This type of notification is regularly used in all other defensible space clearing exemptions statewide. Such notification is necessary to ensure CDF is aware of exempt activities related to defensible space clearing.

Subsection 1038(f) (16): This subsection was renumbered as a result of deletion of the originally proposed subsection 1038(f) (14). Also, redundant language found elsewhere in this section was deleted.

Subsection 1038(f) (17): This subsection was deleted due to statutory conflicts contained in PRC 4584 (k) restricting the removal of live trees from SEZs. Inclusion of this exemption would violate the statutory limitation for operations in SEZs.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone number (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

A copy of the express terms of the proposed regulation is available on request.

A copy of the express terms of the proposed regulation is also available on the Board of Forestry and Fire Protection web page:

http://www.fire.ca.gov/bof/board/board_proposed_rule_packages.html.

Additionally, all the information considered as the basis for this proposed regulation (i.e., rulemaking file) is available to the public at the Board's office listed above.

TEXT OF MODIFIED REGULATIONS

In order to clearly indicate those sections proposed for change in this notice, the text is presented in the following format:

The Board has illustrated changes to the original text in the following manner:

- additions originally proposed on January 20, 2006, is UNDERLINED
- deletions originally proposed on January 20, 2006, is ~~SINGLE STRIKEOUT~~
- additions to the previously noticed language is DOUBLE-UNDERLINED
- deletions to the previously noticed language is ~~DOUBLE STRIKEOUT~~

Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or

- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.



Christopher Zimny
Regulations Coordinator
Board of Forestry and Fire Protection

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