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**JULY 14, 2020**

**Board of Forestry and Fire Protection**

**DRAFT CONVERSION EXEMPTIONS RULE PLEAD**

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

**Division 1.5, Chapter 4,**

**Subchapter 7, Articles 3.2 and 7**

**Amend §§ 1059 & 1104.1**

**§ 1059. Infractions**

(a) Pursuant to PRC § 4601.4(b), these Rules are procedural in nature, the violation of which does not result in or cause environmental damage. The rule list consists of 14 CCR §§ 915.4, 935.4, 955.4; 918.1, 938.1, 958.1; 924.1; 925.2; 925.4; 926.2; 926.3; 926.23; 927.2; 927.14; 928.2; 929.1, 949.1, 969.1; 1029; 1032.7; 1032.10; 1034; 1035.2; 1035.3(c); 1038.2; 1042; 1051.1; 1052(a); 1075; 1080.4; 1090.2; 1090.5; 1090.7; 1090.11; 1090.12(b); 1090.13; 1090.26; 1091.4; 1092.04(d); 1092.07; 1092.09; 1092.13; 1092.14(c); 1092.15; 1104.1~~(a)(1)~~(b); 1105; 1106.1; 1106.3(a).

(b) Infractions shall not be prosecuted if they are corrected within 10 working days of issuance of notification of the violation. Notification and response must be by certified mail. Date of certification identifies date of notification and response.

Note: Authority cited: Sections 4551, 4551.5, 4553 and 4601.4, Public Resources Code. Reference: Section 4601.4, Public Resources Code.

**§ 1104.1. Conversion Exemptions**

(a) Timber Operations conducted under this ~~subsection~~ section shall be exempt from Conversion Permit and ~~timber harvesting Plan~~ THP 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~~Rules, and currently effective provisions of county general plans, zoning ordinances, and any implementing ordinances. The ~~Notice of Conversion Exemption Timber Operations~~ notice of conversion exemption timber operations (notice of conversion exemption) 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. The following types of Timber Operations are exempt:

~~(a)~~(1) ~~This conversion exemption is applicable to a~~ A conversion of Timberland to a non-timber use only, of less than three (3) 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. If all or a portion of the contiguous land ownership has been subject to prior, unpermitted timberland conversion, a conversion exemption hereunder shall not be accepted unless the Director determines that it would be consistent with the purposes of the Act. 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(1) exemption pursuant to this section in a ~~five-year~~ five (5) 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 (5) 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.

(2) Construction or maintenance of a right-of-way by a public agency on its own or any other public property. [NOT NEW, MOVED FROM 1104.1(b)]

(3) The clearing of trees from Timberland by a private or public utility for construction of gas, water, sewer, oil, electric, and communications (transmitted by wire, television, radio, or microwave) rights-of-way, and for maintenance and repair of the utility and right-of-way. The right-of-way, however, shall not exceed the width specified in the Table of Normal Rights-of-Way Widths for Single Overhead Facilities and Single Underground facilities and the supplemental allowable widths. Nothing in this section shall exclude the applicable provisions of PRC §§ 4292 and 4293, and 14 CCR §§ 1250 through 1258, inclusive, for fire hazard clearance from being an allowable supplement to the exempt widths. [NOT NEW, MOVED FROM 1104.1(c)]

~~(1)~~(b) A ~~Notice of Conversion Exemption Timber Operations (notice) must~~ notice of conversion exemption shall be prepared by an RPF on a form prepared by the department and submitted to the Director prior to the commencement of Timber Operations.

(1) The notice of conversion exemption shall contain the following items, as provided in Table 1 below:

Table 1

|  |  |
| --- | --- |
| Type of Conversion Exemption | Notice Requirements |
| 14 CCR § 1104.1(a)(1) | 14 CCR § 1104.1(b)(1)(A) to (J), inclusive |
| 14 CCR § 1104.1(a)(2) | 14 CCR § 1104.1(b)(1)(A) to (E), inclusive, (I), (J)(1), (J)(3), and (J)(4) |
| 14 CCR § 1104.1(a)(3) | 14 CCR § 1104.1(b)(1)(A) to (E), inclusive, (I), (J)(1), (J)(3), and (J)(4) |

(A) The type of exemption. [FROM 1038.1(a)(1)]

~~(A)~~(B) ~~the~~ The names, addresses, and telephone numbers of the Timber Owner, ~~owner of the Timberland to be converted~~Timberland owner, RPF~~, Timber Operator~~ LTO, and the submitter of the ~~Notice of Conversion Exemption Timber Operations;~~ notice of conversion exemption.

~~(B)~~(C) ~~legal~~ Legal description of the ~~area where~~ location of the Timber Operation ~~is to be conducted~~, showing section, township, range, county and assessor parcel number~~;~~.

~~(C)~~(D) The 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;~~ required by paragraph (2).

(E) The tentative date of commencement of Timber Operations. [FROM 1038.1(a)(6)]

(F) 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 proposed conversion to the stated non-timber use is Feasible based upon, at a minimum, the following:

(i) The extent of the vegetation removal and site preparation required for the conversion.

(ii) The suitability of soils, slope, aspect, and microclimate for the stated non-timber use. [NOT NEW, MOVED FROM 1104.1(a)(6)]

~~(D)~~(G) ~~incorporation~~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);~~notice of conversion exemption).

~~(E)~~(H) ~~incorporation~~Incorporation of a statement by the owner of the Timberland to be converted:

~~1.~~(i) ~~certifying~~ Certifying that this is a one-time conversion to non-Timberland use~~,~~.

~~2.~~(ii) ~~certifying~~ 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)~~(b)(1)(F) that there is bona fide intent, as defined in 14 CCR § 1100(b), to convert,

~~3.~~(iii) ~~specifying~~ Specifying what the non-Timberland use will be after conversion~~, and~~.

~~4.~~(iv) ~~certifying~~ Certifying and declaring under penalty of perjury that ~~he/she~~ Timberland owner, 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 (5) years unless a waiver has been granted pursuant to 14 CCR § 1104.1~~(a)(9); and~~ (f)(16).

(I) Written concurrence documentation pertaining to a Significant Archaeological or Historical Site, if any, in the manner required by 14 CCR § 1104.1(f)(9).

~~(F)~~(J) ~~signature of the~~ Signatures from the following:

(1) The submitter~~,~~.

(2) The Timberland owner responsible for the conversion~~, the Timber Operator,~~.

(3) The LTO.

(4) ~~and the~~The RPF.

(2) A submitted notice of conversion exemption shall include a seven-and-one-half (7 1/2) minute USGS quadrangle map, or its equivalent, depicting the information as required by this subsection. Additional maps, which may be topographic or planimetric, may be used to provide additional information, to show specific details, and to improve map clarity. The appurtenant roads included within the Logging Area pursuant to subparagraph (B) below may be shown on a map which may be planimetric with a scale as small as one-half inch equals one (1) mile. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. The submitted notice of conversion exemption shall indicate if more than one (1) Yarding system is to be used and identify the systems (if more than one is used). The maps shall indicate the following information as provided in Table 2 below: [FROM 1038.2]
Table 2

|  |  |
| --- | --- |
| Applicable Exemption | Mapping requirements |
| 14 CCR § 1104.1(a)(1) | 14 CCR § 1104.1(b)(2)(A), (C) to (H), inclusive |
| 14 CCR §§ 1104.1(a)(2) | 14 CCR § 1104.1(b)(2)(B), (D) to (H), inclusive |
| 14 CCR §§ 1104.1(a)(3) | 14 CCR § 1104.1(b)(2)(B), (D) to (H), inclusive |

(A) Ownership boundaries.

(B) Boundaries of the Logging Area.

(C) Boundaries of the Harvest Area.

(D) Location of all Roads to be used for, or potentially impacted by, Timber Operations.

(E) Location of all Watercourses and Lakes with Class I, II, III or IV waters.

(F) Roads and Landings located in a Watercourse, Lake, WLPZ, Meadows and Wet Areas other than at road Watercourse crossings.

(G) Location of known Unstable Areas.

(H) Location of any Special Treatment Areas. [(B)-(H) FROM 1038.2]

(c) Within the timeframe specified in paragraphs (1) and (2), the Director shall determine if the submitted notice of conversion exemption is complete and accurate, and, if so, the Director shall immediately send a notice of acceptance of Timber Operations to the submitter. If the notice of conversion exemption is not complete and accurate it shall be returned to the submitter identifying the specific information required.

(1) Fifteen (15) days from the date of receipt by the Director, for a notice of conversion exemption pursuant to 14 CCR 1104.1(a)(1).

(2) Five (5) business days from the date of receipt by the Director, for a notice of conversion exemption pursuant to 14 CCR §§ 1104.1(a)(2) or (a)(3). [NOT NEW – BUT REVISED, MOVED FROM 1104.1(a)(4), 1038.1(c)(13)]

(d) The Department shall provide the appropriate RWQCB, CDFW, and CGS with copies of the submitted notice of conversion exemption prior to the tentative date of commencement of Timber Operations. [FROM 1038.1]

(e) The LTO 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, as filed with the Director. [NOT NEW, MOVED FROM 1104.1(a)(2)(G)]

~~(2)~~(f) The following conditions apply to ~~conversion exemption~~ Timber Operations~~:~~ under a notice of conversion exemption, as provided in Table 3 below:

Table 3

|  |  |
| --- | --- |
| Applicable Exemption | Timber Operation Conditions |
| 14 CCR § 1104.1(a)(1) | 14 CCR §§ 1104.1(f) (1)-(16), inclusive, (21), and (22) |
| 14 CCR § 1104.1(a)(2) | 14 CCR §§ 1104.1(f)(1), (3)-(5), inclusive, (6)(A)-(F), inclusive, (7)-(11), inclusive, (13), (14), and (21)-(27), inclusive |
| 14 CCR § 1104.1(a)(3) | 14 CCR §§ 1104.1(f)(1), (3)-(5), inclusive, (6)(A)-(F), inclusive, (7)-(11), inclusive, (13), (14), and (17)-(27), inclusive |

~~(A)~~(1) All Timber Operations shall be complete within one (1) year from the date of acceptance by the Director.

~~(B)~~(2) ~~All conversion activities~~Conversion to the bona fide nontimber use shall be complete within two (2) 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 PRC § 4561 and Stocking report requirements of ~~Forest Practice~~ the Act and ~~Board regulations.~~ Rules.

~~(C)~~(3) The RPF or Supervised Designee shall ~~visit the site and~~ flag the boundary of the ~~conversion exemption Timber Operation and flag~~ Harvest Area and any applicable WLPZs and Equipment Limitation Zones.

~~(D)~~(4) This section refers to Slash and Woody Debris resulting from Timber Operations associated with conversion exemptions. The ~~Timber Operator~~ LTO shall be the responsible party for the treatment of logging Slash and Woody Debris. Fuel treatment shall be as follows:

~~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 seven (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 (7) 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.~~

(A) Slash shall be treated to achieve a maximum post-harvest depth of eighteen (18) inches above the ground. All Slash shall be lopped, removed, chipped, burned, or otherwise treated, within one (1) year from the date of acceptance. [FROM 1038.1]

(5~~E~~) Timber Operations may be conducted during the Winter Period. Tractor Operations in the Winter Period are allowed under any of the following conditions:

(A)~~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, and prior to weekend or other shutdown periods.

(B)~~2.~~ When ground conditions in the conversion exemption area and Appurtenant Roads satisfy the "hard frozen" definitions in 14 CCR § 895.1.

(C)~~3.~~ Over-snow operations where no soil disturbance occurs.

~~(F)~~(6) No Timber Operations within a WLPZ ~~unless specifically approved by local permit (e.g. County, City).~~~~,~~ except for the following:

(A) Hauling on existing roads.

(B) Road Maintenance.

(C) Operations conducted for public safety.

(D) Construction or reconstruction of approved Watercourse crossings.

(E) Temporary crossings of dry Class III Watercourses that do not require notification under the Fish and Game Code §1600 et seq.

(F) Harvesting recommended in writing by CDFW to address specifically identified forest conditions. [(A)-(F) FROM 916.9(s)]

(G) Those specifically approved by a local permit (e.g. County, City).

(7) In-lieu practices for WLPZs as specified under Article 6 of Subchapters 4, 5, and 6, as appropriate, of these Rules, exceptions to Rules, notwithstanding 14 CCR §§ 1104.1(f)(6), and alternative practices are not allowed. [NOT NEW, BUT REVISED, MOVED FROM 1104.1(h)]

~~(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.~~ [NOT DELETED, MOVED TO 1104.1(e)]

~~(H)~~(8) 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)~~(9) No Timber Operations on ~~significant historical or archeological sites,~~ any site that satisfies the criteria listed in 14 CCR §895.1 for a Significant Archaeological or Historical Site except under the following conditions:

~~1.~~(A) If a ~~significant archeological site~~ Significant Archaeological or Historical Site is identified by the RPF preparing the ~~Notice of Conversion Exemption~~ notice of conversion exemption within the Project boundary, the site may be preserved in place by capping or covering with a layer of soil prior to submission.

~~a.~~(B) If a site has been preserved in place, the RPF preparing the ~~Notice of Conversion Exemption~~ notice of conversion exemption shall obtain written concurrence from a Department ~~Archeologist~~ Archaeologist prior to submission indicating operations will not cause damage to a ~~significant archeological site.~~ Significant Archaeological or Historical Site.

~~b.~~(C) The written concurrence from a Department ~~Archeologist~~ Archaeologist shall be submitted with the ~~Notice of Conversion Exemption~~ notice of conversion exemption.

~~(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.~~

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

~~(K)~~(11) Before beginning Timber Operations, the ~~Timber Operator~~ LTO shall notify the Department of the actual commencement date of operations. The notification, by telephone, mail, or email, shall be directed to the appropriate CAL FIRE Unit Headquarters, Forest Practice Inspector, or other designated personnel. If the notification is provided by mail, Timber Operations may not commence until three (3) days after the postmark date of notification.

~~(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 five (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 14 CCR § 895.1 notifying them of the intent to harvest timber. The mailed letter of notice and the posted notice shall contain a map of the project area and 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.~~

(12) Upon submission of the notice of conversion 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 conversion exemption to Native Americans as defined in 14 CCR §895.1. [FROM 1038.1]

~~(4) The Director shall determine if the Notice of Conversion Exemption Timber Operations is complete and accurate within fifteen (15) 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.~~ [NOT DELETED, MOVED TO 1104.1(c)]

~~(5)~~(13) 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;~~ [NOT DELETED, MOVED TO 1104.1(b)(1)(F)]

~~(7)~~(14) The Department ~~shall~~ may provide for inspections, as needed, to determine that the conversion was completed.

~~(8)~~(15) The notice of conversion exemption shall expire if there is any change in Timberland ownership.

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

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

(C) If ~~operations~~ Timber Operations have been conducted, but not completed under the exemption, the new Timberland owner shall:

~~1.~~(i) ~~submit~~Submit a new notice~~, or~~ of conversion exemption.

~~2.~~(ii) ~~comply~~Comply with each of the following:

~~a.~~(I) ~~harvest~~Harvest no additional timber~~;~~.

~~b.~~(II) ~~meet~~Meet Stocking requirements of 14 CCR § 1104.1~~(a)(2)(B);~~(f)(2).

~~c.~~(III) ~~dispose~~Dispose of the slash created under the exemption activities according to 14 CCR § 1104.1~~(a)(2)(D);~~(f)(4).

~~d.~~(IV) ~~provide~~Provide Erosion Control for skid trails, roads, Landings, and disturbed areas as required by the ~~Forest Practice~~ Rules.

~~e.~~(V) ~~submit~~Submit a report within ninety (90) days of the change of Timberland ownership that items ~~a through d~~ (I) through (IV) above were completed.

~~(9)~~(16) A Timberland owner may request a waiver to the five-year limitation described in 14 CCR § 1104.1(a)(1). The Director may grant the waiver upon finding that one (1) of the following conditions exist:

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

~~2.~~(ii) ~~the~~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~~ five (5) years at the time the waiver is requested~~, and~~.

~~3.~~(iii) ~~operations~~ Timber Operations conducted on all exemptions issued to the Timberland owner within the past ~~5~~ five (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~~The change of ownership which caused the previous notice of conversion exemption 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~~ five (5) year limitation described in 14 CCR § 1104.1(a)(1) would impose an undue hardship on the Timberland owner.

(C) ~~the~~ The notice of conversion exemption has expired and no ~~operations~~ Timber 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~~ five (5) year limitation described in 14 CCR § 1104.1(a)(1) would impose an undue hardship on the Timberland owner.

~~(b) Construction or maintenance of right-of-way by a public agency on its own or any other public property.~~ [NOT DELETED, MOVED TO 1104.1(a)(2)]

~~(c) The clearing of trees from Timberland by a private or public utility for construction of gas, water, sewer, oil, electric, and communications (transmitted by wire, television, radio, or microwave) rights-of-way, and for maintenance and repair of the utility and right-of-way. The said right-of-way, however, shall not exceed the width specified in the Table of Normal Rights-of-Way Widths for Single Overhead Facilities and Single Underground facilities and the supplemental allowable widths.~~

~~Nothing in this section shall exclude the applicable provisions of PRC §§ 4292 and 4293, and 14 CCR §§ 1250 through 1258 inclusive for fire hazard clearance from being an allowable supplement to the exempt widths.~~ [NOT DELETED, MOVED TO 1104.1(a)(3)]

~~(d)~~(17) Table of Rights-of-Way Widths for Single Overhead Facilities (A single facility for overhead electric lines means a single circuit)

Utility Size Width

Electric (Overhead Distribution and Transmission Single Circuits)

 0-33 KV 20'

 34-100 KV 45'

 101-200 KV 75'

 (pole)

 101-200 KV 80'

 (tower)

 201-300 KV 125'

 (tower)

 301- KV and above 200'

 (tower)

Telephone cable or open wire when underbuilt

 All 30'

Communications (Radio, Television, Telephone and Microwave)

 All 30'

Active or passive microwave repeater and/or radio sites

 All 40'

Microwave paths emanating from antennas or passive antenna or passive repeaters

All 20' from edges of repeater, and following centerline of path.

 Radio and Television antennas

 All 30' In all directions

 Telephone cable or open wire when underbuilt

All 30'

~~(e)~~(18) The above right-of-way widths for above ground facilities shall be allowed supplemental clearances as follows:

~~(1)~~(A) Equal additional rights-of-way for each additional facility, including these allowable supplemental clearances under this section.

~~(2)~~(B) Additional clearance widths for poles and towers, and for conductor sway as provided in PRC §§ 4292 and 4293, and 14 CCR §§ 1250 through 1258 inclusive, as applicable.

~~(3)~~(C) Additional clearance for removal of Danger Trees as defined in 14 CCR § 895.1.

~~(4)~~(D) Additional land area for substation and switch yards, materials storage and construction camps, with clearance for firebreaks, and security fencing

~~(f)~~(19) Table of Rights-of-Way Widths for Single Underground Facilities

Utility Size Width

Electric, Underground

 4"-6" Conduit 50'

 More than 6" Conduit 60'

Gas, Oil, Water and Sewer (Underground pipe)

6" diameter or smaller 50'

 Over 6"-12" diameter 60'

 Over 12"-24" diameter 75'

 Over 24" diameter 100'

 Penstocks, Syphons All 100'

 Ditches and Flumes All 150'

Access Roads All Access road widths may be up to 14' with an additional 10' width at turnout locations, plus additional width for cuts and fills. Access roads shall be installed and maintained so as to comply with the stream protection requirements and erosion control requirements of the ~~Forest Practice~~ Act, related regulations, and the District ~~Forest Practice~~ Rules.

~~(g)~~(20) The above right-of-way widths for underground facilities and penstocks, syphons, ditches and flumes shall be allowed supplemental clearances as follows:

~~(1)~~(A) Additional width for cuts and Fills.

~~(2)~~(B) Removal of trees or plants with roots that could interfere with underground facilities, or with cuts and Fills for installation.

~~(3)~~(C) Additional clearance for removal of Danger Trees as defined in 14 CCR § 895.1.

~~(4)~~(D) For compressor, metering and control stations on natural gas pipelines; including firebreaks and security fencing:

~~(A)~~(i) ~~450~~ Four hundred fifty (450) foot width at one (1) side of right-of-way and ~~500~~  five hundred (500) foot length along the compressor stations.

~~(B)~~(ii) ~~300~~ Three hundred (300) feet x ~~300~~ three hundred (300) feet on or alongside the right-of-way for metering and control stations.

~~(h) In-lieu practices for Watercourse and Lake Protection Zones as specified under Article 6 of these Rules, exceptions to Rules, and alternative practices are not allowed.~~ [NOT DELETED, MOVED TO 1104.1(f)(7)]

~~(i)~~(21) ~~Harvesting of large old trees shall only occur when~~Large old trees, defined as a 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; Decadent and Deformed Trees with Value to Wildlife; and, for an exemption pursuant to 14 CCR §§ 1104.1(a)(2) and (a)(3) only, Danger Trees, shall not be harvested unless done pursuant to the following conditions: [NOT NEW – BUT REVISED, MOVED FROM 1104.1(a)]

~~(1)~~(A) ~~the~~The tree is not critical for the maintenance of a Late Successional Stand ~~and~~.

~~(2)~~(B) ~~an~~ An RPF attaches to the exemption an explanation and justification for the removal based on the RPF's finding that one or more of the criteria or conditions listed under subsection ~~(A), (B), or (C)~~ (i), (ii), or (iii) are met. The requirements of ~~(i)(2)~~ this paragraph need not be met if an approved management document; including but not limited to a HCP, SYP, NTMP, WFMP, or PTEIR; addresses large old tree retention for the area in which the large old tree(s) are proposed for removal and the removal is in compliance with the retention standards of that document. All trees to be harvested pursuant to this subsection shall be marked by an RPF prior to removal.

~~(A)~~(i) The tree(s) is a hazard to safety or property. The hazard shall be identified in writing by an RPF or professionally certified arborist~~;~~.

~~(B)~~(ii) The removal of the tree(s) is necessary for the construction of a building as approved by the appropriate county/city permitting process and as shown on the county/city approved site Plan, which shall be attached to the Notice of Exemption~~;~~.

~~(C)~~(iii) The tree is dead or is likely to die within one year of the date of proposed removal, as determined by an RPF or professionally certified arborist.

(22) All Timber Operations conducted in the Lake Tahoe Region must have a valid Tahoe Basin Tree Removal Permit, as defined by TRPA, or shall be conducted under a valid TRPA Memorandum of Understanding, when such a permit is required by TRPA. [FROM 1038.1]

(23) No tractor or heavy equipment operations on slopes greater than fifty (50) percent. [FROM 1038.1]

(24) No construction of new Tractor Roads on slopes greater than forty (40) percent. [FROM 1038.1]

(25) Timber Operations within any Special Treatment Area shall comply with the rules associated with that Special Treatment Area. [FROM 1038.1]

(26) No tractor or heavy equipment operations on known Unstable Areas. [FROM 1038.1]

(27) No new road construction or reconstruction, as defined in 14 CCR §895.1. [FROM 1038.1]

Note: Authority cited: Sections 4551, 4553, 4584, 4584.1, 4604, 4611 and 4628, Public Resources Code. Reference: Sections 4512, 4513, 4584, 4597, 4628 and 21083.2(b)(3), Public Resources Code.