

BOARD OF FORESTRY AND FIRE PROTECTION

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Staff Report:
“Exemption Emergency Regulations, 2019” Potential Readoption Issues
Forest Practice Committee
 June 11, 2019

On January 23, 2019 the Board of Forestry and Fire Protection (Board) adopted emergency regulations related to statutory amendments within SB 901 (Dodd, 2018) which resulted in extensive changes to the Board’s regulatory exemptions from the Forestry Practice Act within 14 CCR § 1038 *et. seq.* Though process was somewhat modified by Section 46 of SB 901, the emergency regulations were adopted pursuant to Government Code § 11346.1, which allows for up-to two readoptions of emergency regulations which are the same, or substantially equivalent, as the previously adopted emergency regulations. The Office of Administrative Law approved and filed these emergency regulations on February 19, 2019 and, though the emergency regulations will remain in effect until revised by the Board through regular rulemaking, the Board may have the opportunity to re-adopt regulations until August 19, 2019, in order to address any issues which may be resolved through substantially equivalent regulation.

Board staff have proposed recommended changes to the rule text related to the following issues:

- Capitalize Timber Operations within § 1038(c)(3)
- Within §1038 (c)(6)(A) capitalize “Dominant” and “Codominant”
- Within § 1038(f)2) make stocking standards lowercase
- Improve grammar within §1038.1(c)
- Remove unenforceable informational statement from §1038.1(c)(3).
- Improve grammar within §1038.1(c)(9)
- Improve grammar within §1038.1(c)(12)
- Within §1038.1(c)(13) require a determination of accuracy of notice of exemption to maintain consistency within provision.
- Within §1038.2(i) require mapping of all Class I, II, III, or IV waters.
- Make §1038.3(m) stylistically consistent
- Within §1038.3(n) correct citation to the forest fire prevention exemption
- Re-organize subsection §1038.3(s)
- Within §1038.3(s)(4) require determination of accuracy of notice of exemption to maintain consistency within the provision.
- Make consistent throughout §§1038.3 and 1038.4 that all provisions related to road construction or reconstruction are consistent with regards to temporary roads.

Additional Committee consideration may be required for the following issues:

- May need to clarify the requirement of §1038 (f)(5) to retain the six largest trees per acre within the boundaries of the notice. (see correspondence by Matt Greene Dated 02/08/19)
- May need to clarify or reevaluate the requirement of §1038 (f)(7) related to vertical spacing.

- Reevaluate the provision of §1038.1(c)(15) as applicable to trees which are both large and old, or trees which are either large or old
- Within §1038.2(b) reevaluate application to 14 CCR § 1038(b)
- May need to clarify or reevaluate the requirement of §1038.3(k)(3) related to vertical spacing
- Reevaluate restrictions within §1038.2 and 1038.4 on color coding in maps
- May need to clarify or reevaluate the use of multiple or overlapping exemptions.
- Reevaluate consistency between § 1038.3(o) and PRC § 4584.2(b)