



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

San Benito – Monterey Unit

221 Garden Road
 Monterey, CA 93940-5385
 (831) 333-2600
 Website: www.fire.ca.gov



Revised: June 4, 2008 updated with post fire documents on 8/20/08

TREE REMOVAL INFORMATION COMMONLY ASSOCIATED WITH BUILDING PERMITS AND OTHER DEVELOPMENT PROJECTS

STATE REGULATIONS

In addition to Fire Code Regulations for State Responsibility Areas noted in the 4290 Checklist, the California Department of Forestry and Fire Protection (CAL FIRE) is responsible for administering Timber Harvesting Regulations conducted throughout California on all non-federal timberland. This applies regardless of zoning and includes lands inside of city limits. The removal of California native “commercial” timber species from forested lots, areas of pending new construction, and from around existing structures is included under these regulations. The following information is compiled from Title 14, California Code of Regulations and the Public Resources Code to assist in the determination of the necessity of a **Timber Harvest Plan (THP)**, **Timberland Conversion Permit (TCP)**, or other type of timber harvest plan **exemption** or **emergency** document.

Forest Practice Checklist

I. DETERMINING IF A HARVESTING PERMIT IS REQUIRED:

1. Is the project occurring on timberland?

Yes....Go to question #2.

In Monterey and San Benito Counties, qualifying commercial timber species include Coast Redwood, Douglas Fir, Monterey Pine, Coulter Pine, Ponderosa Pine, Jeffrey Pine, White Alder, Cottonwood, Pacific Madrone, California Black Oak and Tanoak . **Timberland** includes areas where the above species are now growing naturally or have grown naturally in the recorded past, even if not currently present.

No....This does not constitute timber operations and a THP or other harvest document is NOT required by CAL FIRE. STOP HERE.

2. Are you cutting trees and plan to sale, barter, exchange or trade any type of wood product?

Yes.... A THP or other timber harvest plan exemption document is required by CAL FIRE prior to cutting any trees. Refer to the Section II titled “Types of Harvest Documents”.

No.... A THP or other timber harvest plan exemption document may still be required by CAL FIRE. Go to question #3.

3. Are you cutting or removing trees from timberland, and converting the area to a non-timber use? NOTE: These requirements apply even if the wood products are not sold commercially or the trees aren't of merchantable size.

a) **Yes**, and the area involved is less than three acres... Do not harvest without an approved Less than 3-acre conversion exemption (14 CCR 1104.1)

b) **Yes**, and the area involved is greater than three acres...A TCP and THP are required.

c) **Yes**, and the area is an approved subdivision under the Subdivision Map Act..... An Exemption for Conversion of Non-TPZ¹ Land for Subdivision Development (14 CCR 1104.2) can meet the TCP requirement and either a THP or Less than 3-acre conversion exemption are required.

d) **No**.... If question number 1, 2, and 3 above are answered no, a THP or other harvest document is NOT required by CAL FIRE.

¹ TPZ: Zoning classified as Timberland Production Zone.

NOTE: In San Benito and Monterey Counties, the most common examples of conversions include commercial developments or construction of individual residential structures on lands classified as timberland.

II. TYPES OF HARVEST DOCUMENTS:

Timber Harvest Plans are detailed documents that allow timber operations and provide analysis of environmental impacts, and will not be discussed in any detail. The harvest documents required for Timberland Conversions are addressed in Section I, question 3 above. The following list describes the most commonly used harvest exemptions and emergencies.

1. 1038(c)* Removal of Fire Hazard Trees Within 150 Feet of a Structure Exemption

This exemption is required for the cutting or removal of trees in compliance with sections 4290 and 4291 from within 150 feet of existing permitted structures which is intended to reduce the fuels and fire hazard. This exemption is required only if wood products are offered for sale, barter, exchange or trade. A Registered Professional Forester services are not required, however a Licensed Timber Operator must be listed on the exemption. Extensive slash disposal requirements apply and the exemption is valid for one year. See 14 CCR 1038 (c).

2. 1038 (a,b)*Christmas Tree; Dead, Dying, or Diseased; Fuelwood or Split Products Exemption

This exemption is required when removing trees that are dead or are obviously dying from insect attack or disease (harvest can not exceed 10% of the average volume per acre), or when removing fuelwood or other miscellaneous products such as Christmas trees, fencing, etc. This exemption is required only if wood products are offered for sale, barter, exchange or trade. Registered Professional Forester services are not required, however a Licensed Timber Operator must be listed on the exemption. The exemption is valid for one year. See 14 CCR 1038 (a & b).

3. 1104.1 (a) Less Than Three Acre Conversion Exemption

This one-time exemption is required for property owners who intend to cut or remove trees for structures and other needed improvements. *This exemption is required whether or not wood products are offered for sale, barter, exchange or trade.* A Registered Professional Forester must prepare this exemption. *Building*

contractors are ineligible to perform this work, unless they are also a Licensed Timber Operator. The exemption is valid for one year. See 14 CCR 1104.1.

4. 1104.1 (b,c) Public Agency, Public and Private Utility Right of Way Exemptions

These exemptions are used for construction or maintenance of right-of-way by a public agency on its own or any other public property; or 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. *This exemption can only be used to remove trees that are marked or felled as hazard trees in established utility right-of-ways, or for construction of right of ways that have been approved by the county.*

5. 1052 Emergency

Before cutting or removing timber on an emergency basis, **a Registered Professional Forester (RPF) on behalf of a timber owner or operator shall submit a Notice of Emergency Timber Operations to the Director...** *An emergency can be filed for removal of damaged, dead, or dying trees due to fire. Per the 14 CCR 895.1 definition of “dying trees”, it is up to the RPF to designate dying trees for harvest. Given the provisions of this definition, it would be the RPF’s responsibility to designate only those trees that are likely to die within one year.*

* (14 CCR 961.2) Notwithstanding 14 CCR 1038, exemptions from plan filing requirements in the Coastal Commission Special Treatment Areas shall only be allowed for minor operations where no live trees are cut.

Some of the applicable laws and regulations that apply are summarized on the following pages. The rules cited may not be quoted, and are not intended to be authoritative. The code section has been included to provide reference to the official law or rule language can be found at www.leginfo.ca.gov/calaw.html, or the official publications by Barclays Official California Code of Regulations (1-800-888-3600).

If you have any questions or need additional information on the different types of harvest documents that may be applicable to your project, please contact the Unit Forester or the Area Forester where the project is located.

Area	Forester	Telephone
All of San Benito and Monterey Counties	Jonathan Pangburn	(831) 333-2600
or contact	Mike Bacca – Forest Practice Manager Southern Region	(559) 243-4114

Z’berg-Nejedly Forest Practice Act of 1973

CAL FIRE has enforcement responsibility for the Z’berg-Nejedly Forest Practice Act of 1973. CAL FIRE is also the lead agency for those parts of projects involving the scope of the Forest Practice Act. This involves the regulation of “Timber Operations”, as defined in Section 4527 of the Public Resources Code (PRC), on all non-federal private lands.

PRC 4526 – Timberland

“Timberland” means land, other than land owned by the federal government, which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees.

PRC 4527 - Timber Operations

“Timber Operations” means the cutting or removal or both of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to, construction and maintenance of roads, fuel breaks, stream crossings, landings, and skid trails.

“Commercial purposes” includes (1) The cutting or removal of trees which are processed into logs, lumber, or other wood products and offered for sale, barter, exchange or trade, or; (2) The cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber which are subject to the provisions of Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects. Removal or harvest of incidental vegetation from timberlands, such as berries, ferns, greenery, mistletoe, herbs, and other products, which action cannot normally be expected to result in a threat to forest, air, water, or soil resources, does not constitute timber operations.

PRC 4581 – Necessity of timber harvest plan

No person shall conduct timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted for such operations.

Other pertinent rule sections regarding conversion of timberlands: 14 CCR 1100-1110 and PRC 4621.

Richard C. Hutchinson Jr., Unit Chief
San Benito - Monterey Unit

By Jonathan Pangburn
Unit Forester