

1 **Board of Forestry and Fire Protection**

2 **“Drought Mortality Amendments, 2015”**

3 **Title 14 of the California Code of Regulations (14 CCR):**

4 **Division 1.5, Chapter 4, Subchapter 7,**

5 **Article 2 – Timber Harvesting Plan**

6
7 **Amend:**

8 **§ 1038. Exemption.**

9 **§ 1052.1. Emergency Conditions.**

10
11 **1038**

12 Persons who conduct the following types of timber operations are exempt from the plan
13 preparation and submission requirements (PRC § 4581) and from the completion report
14 and stocking report requirements (PRC §§ 4585 and 4587) of the Act with the following
15 exceptions and requirements:

16 (i) no tree that existed before 1800 A.D and is greater than sixty (60) inches in diameter
17 at stump height for Sierra or Coastal Redwoods, and forty-eight (48) inches in diameter
18 at stump height for all other tree species shall be harvested unless done so under the
19 conditions or criteria set forth in subsection 1038(h).

20 (ii) all timber operations conducted in the Lake Tahoe Region pursuant to 14 CCR §
21 1038 must have a valid Tahoe Basin Tree Removal Permit (as defined by the Tahoe
22 Regional Planning Agency) or shall be conducted under a valid TRPA Memorandum of
23 Understanding (MOU), when such a permit is required by TRPA.

1 ***** (k) Harvesting dead or dying trees (in response to drought related stress) of any
2 size, fuelwood or split products. The provisions of this exemption supersede the
3 provisions of any other exemptions that are in the same harvest area footprint. In
4 addition to compliance with 14 CCR § 1038.1, and the limitations listed in 1038(b)(1)-
5 (10), the following apply:

6 (1) The exemption shall include the requirements of 14 CCR § 1038.2(a)-(c),
7 total acreage of the exemption harvest area (as defined in 14 CCR § 895.1), and an
8 enlarged 7½ minute quadrangle map or its equivalent that is not less than one (1) inch
9 equals 1,000 feet showing the location of the harvest area. For projects that require a
10 Registered Professional Forester (RPF), pursuant to 14 CCR § 1038(k)(7), the location
11 of timber operations and watercourses, including watercourse classification, shall also
12 be shown on this map.

13 (2) The exemption shall include a signature of the landowner certifying that they
14 are the landowner.

15 (3) Trees eligible for removal shall meet one or more of the following conditions:

16 (A) Trees that are dead, or,

17 (B) Trees with fifty (50%) percent or more of the foliage-bearing crown
18 that is dead or fading in color from a normal green to yellow, sorrel, or brown, excluding
19 normal autumn coloration changes, or with evidence of successful bark beetle attacks,
20 through indications of dead cambium and brood development distributed around the
21 circumference of the bole, or;

22 (C) The RPF, in writing, in the Notice of Exemption, certifies the following:

23 1. Trees designated by an RPF as likely to die due to drought
24 related stress, within one year, or,

25 2. Trees marked in accordance with 14 CCR § 1038(b)(9), or,

1 3. Trees marked by an RPF in accordance 14 CCR § 1038(h).

2 (4) Retain an average for the harvest area of not less than one (1) decadent and
3 deformed tree of value to wildlife, snag, or dying tree per acre that is greater than
4 sixteen (16) inches DBH (diameter breast height) and twenty (20) feet tall. This
5 provision does not apply within one hundred (100) feet of habitable structures, roads,
6 fire suppression ridges, and infrastructure facilities such as transmission lines and
7 towers, or water conveyance and storage facilities.

8 (5) The exemption shall include the tentative commencement date of timber
9 operations on the notice required in 14 CCR § 1038.2. Within a 15 day period before
10 beginning timber operations, the timber operator shall notify CAL FIRE of the actual
11 commencement date for the start of operations.

12 (6) Operations pursuant to this exemption may not commence for five (5)
13 working days from the date of the Director's receipt of the Notice of Exemption unless
14 this delay is waived by the Director, after consultation with other state agencies. The
15 Director shall determine whether the Notice of Exemption is complete, and if so, shall
16 send a copy of a notice of acceptance to the submitter. If the Notice of Exemption is not
17 complete and accurate, it shall be returned to the submitter and the timber operator may
18 not proceed. If the Director does not act within five days of receipt of the Notice of
19 Exemption, timber operations may commence.

20 (7) The exemption shall be submitted by an RPF, and include the following,
21 when timber operations on a cumulative harvest area exceeds twenty (20) acres per
22 total contiguous ownership.

23 (A) Name, address, telephone and license number of the RPF that
24 prepared and submitted the Notice of Exemption.

1 (B) RPF certification that no conditions were identified where operations,
2 conducted in compliance with the rules of the Board, would reasonably result in
3 significant adverse effects.

4 (8) The Department shall monitor and report on the statewide use of the
5 exemption, allowed under 14 CCR § 1038(k), including the number of harvest area
6 acres, the areas of application and the degree of compliance. The Department shall,
7 prior to the expiration date, report its findings, to the Board.

8 Note: Authority cited: Sections 4551, 4553, 4584 and 4584.1, Public Resources Code.
9 Reference: Sections 4516, 4527 and 4584, Public Resources Code; and *EPIC v.*
10 *California Department of Forestry and Fire Protection and Board of Forestry* (1996) 43
11 Cal. App.4th 1011. *****

12
13 **1052.1**

14 The following are conditions that constitute an emergency pursuant to 14 CCR § 895.1:

15 *****(b) Trees that are fallen, damaged, dead or dying as a result of wind, snow,
16 freezing weather, drought, fire, flood, landslide or earthquake.*****

17 Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference:
18 Sections 4592, 4750, 4750.3 and 4750.4, Public Resources Code.

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