Potential Revisions to 14 CCR § 1038 (Exemptions)

Pursuant to SB 901

January 9, 2019

§ 1038. Exemption.

Persons who conduct the following types of Timber Operations conducted pursuant to this section are exempt from the plan preparation and submission requirements (PRC § 4581) and from the completion report and Stocking report requirements (PRC §§ 4585 and 4587) of the FPA. Timber Operations conducted under any notice of exemption described herein shall be limited to one (1) year from the date of receipt by the Director, and shall comply with all operational provisions of the FPA and District Forest Practices Rules applicable to “Timber Harvest Plan”, “THP”, and “Plan” definitions per 14 CCR § 895.1. In-lieu practices within WLPZs as specified under Article 6 of these Rules, exceptions to the Rules, and alternative practices are not allowed with the following exceptions and requirements.

The following types of Timber Operations are exempt:

(i) 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 1038(h).

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

(a) Harvesting Christmas trees.
(b) Harvesting dead trees, dying Dying Trees, or diseased trees Diseased Trees of any size, fuelwood or split products in amounts less than ten (10) percent of the average volume per acre, or the removal of Slash and Woody Debris that is not located within a WLPZ, when the following conditions are met:

1. No tractor or heavy equipment operations on slopes greater than 50 percent.
2. No construction of new tractor roads on slopes greater than 40 percent.
3. Timber operations within any Special Treatment Area, as defined in 14 CCR 895.1, shall comply with the rules associated with that Special Treatment Area.
4. No tractor or heavy equipment operations on known slides or unstable areas.
5. No new road construction or reconstruction, as defined in 14 CCR 895.1.
6. No heavy equipment operations within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4, 956.4] (b), except for maintenance of roads and drainage facilities or structures.
7. No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.
8. No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR 895.1.
9. No timber harvesting within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4, 956.4] (b), except sanitation-salvage harvesting, as defined in 14 CCR 913.3 [933.3, 953.3], where immediately after completion of operations, the area shall meet the stocking standards of 14 CCR 912.7 [932.7, 952.7] (b)(2), or, except the removal of dead or dying trees where consistent with 14 CCR 916.4 [936.4, 956.4] (b). Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.
10. No timber operations on any site that satisfies the criteria listed in 895.1 for a significant archaeological or historical site. Information on some of these sites may be available from the
Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation.

(c) The cutting or removal of trees in compliance with PRC §§ 4290 and 4291, which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak to reduce fire spread, duration and intensity. The requirements of this subsection shall not supersede the requirements of PRC § 4291.

(1) Only trees within one-hundred-fifty (150) feet from any point of an Approved and Legally Permitted Structure that complies with the California Building Code (CCR, Title 24) may be harvested, except as specified in 14 CCR § 1038(c)(6).

(2) The following Silvicultural Methods may not be used: clearcutting, Seed Tree removal step, shelterwood removal step.

(3) All surface fuels created by Timber Operations, within one-hundred-fifty (150) feet of an Approved and Legally Permitted Structure, that could promote the spread of wildfire, including logging slash and debris, slash or Woody Debris, deadwood, branches exceeding one (1) inch in Diameter, and brush, shall be chipped, burned, or removed within forty-five (45) days from the start of timber operations. This paragraph does not apply to surface fuels created beyond 150 ft pursuant to 14 CCR § 1038(c)(6).

(4) In addition to the slash surface fuel treatment described in 14 CCR § 1038(c)(3), the areas of timber operations Harvest Area must meet the vegetation treatment standards in PRC § 4584(i)(1) to (2)(A) illustrated in Technical Rule Addendum No.4 within one (1) year from the receipt of issuance of notice of acceptance. This paragraph does not apply to 14 CCR § 1038(c)(6). The LTO, timberland owner, or if applicable the RPF, shall certify that a notification to the landowner has been provided that states the slash treatment requirements and enforcement procedures under this exemption.

(5) In addition to the limitations listed in 14 CCR § 1038(b)(1)-(10),
(A5) Timber operations conducted under this subsection shall conform to the applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances within which the notice of exemption is located. The LTO timber operator, timberland owner, or if applicable the RPF, shall certify that the city or county has been contacted and the notice of exemption conforms with all city or county regulatory requirements.

(B) Timber operations may not be conducted without a copy of the Director's notice of acceptance of the exemption at the operating site, except where the Director has failed to act within the 5 working-day review period.

(6) Trees that are located from one-hundred-fifty (150) feet up to three-hundred (300) feet from any point of an Approved and Legally Permitted Habitable Structure that complies with the California Building Code may also be cut and removed for the purpose of reducing flammable materials and maintaining a fuelbreak provided the following conditions are met:

(A) The post-harvest stand shall be primarily comprised of healthy and vigorous dominant and codominant trees well-distributed throughout the treated area and meet the Stocking Standards consistent with 14 CCR § 913.2 [933.2, 953.2].

(B) The Quadratic Mean Diameter (QMD) of trees greater than eight (8) inches dbh in the pre-harvest project area shall be increased in the post-harvest stand.

(C) All logging slash created by the timber operations shall be lopped, removed, chipped, piled and burned, or otherwise treated to achieve a maximum post-harvest depth of eighteen (18) inches above the ground within forty-five (45) days from the start of timber operations except for the burning of piles, which shall be accomplished not later than April 1 of the year following their creation, or for piles created on or after September 1, not later than April 1 of the second year following creation. Treatment of surface fuels by burning shall be exempt from the one-year time limitations described under 14 CCR § 1038.1.
(D) The Notice of Exemption, pursuant to 14 CCR § 1038.2, shall be prepared, signed, and submitted to the Department by a RPF.

(E) The Notice of Exemption shall include site class, an estimate of pre- and post-harvest QMD and certification by the RPF that, in their professional judgment, post-harvest slash treatment and stand conditions will lead to more moderate fire behavior.

(F) 14 CCR § 1038(c)(6) shall expire on January 1, 2019.

(G) The Department shall evaluate the effects of the exemption allowed under 14 CCR § 1038(c)(6) including frequency and state-wide distribution of use, acres treated, compliance, professional judgment regarding post-treatment stand conditions observed relative to moderating fire behavior, and actual performance in the event of a wildfire. The Department shall annually report its findings, based on this evaluation, to the Board.

(d) The limit of 10 percent of the volume per acre in subsection (b) above does not apply when harvesting dead, dying or diseased trees, fuelwood, or split products in response to drought related stress or dead trees which are unmerchantable as sawlog-size timber from substantially damaged timberlands, as defined in 14 CCR § 895.1, and the following conditions are met:

1. Timber operations shall comply with the limits established in 14 CCR 1038(b)(1)-(10).
2. The landowner shall notify the Director of the completion of timber operations within thirty days of their cessation.
3. At least one inspection conducted by the Director shall be made after completion of operations (Section 4604 PRC).
4. The RPF certifies that the notice of exemption is submitted upon Substantially Damaged Timberland is substantially damaged when necessary.
(2) Trees eligible for removal when harvesting in response to drought related stress shall meet one (1) or more of the following conditions:

   (A) Trees that are dead, or

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

   (C) The RPF, in writing, within the submitted notice of exemption, certifies that trees are designated, by an RPF or Supervised Designee, with a stump mark, as likely to die due to drought related stress within one (1) year.

(5) The RPF shall also certify that no conditions were identified where operations, conducted in compliance with the rules of the Board, would reasonably result in significant adverse effects.

(e) Operations pursuant to an exemption under subsection (c), (d), (i), (j) and (l) may not commence for five (5) working days from the date of the Director’s receipt of the Notice of Exemption unless this delay is waived by the Director, after consultation with other state agencies. The Director shall determine whether the Notice of Exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter. If the Notice of Exemption is not complete and accurate, it shall be returned to the submitter and the timber operator may not proceed. If the Director does not act within five (5) working days of receipt of the Notice of Exemption, timber operations may commence.

(f) Timber operations conducted in the Lake Tahoe Region authorized under PRC § 4584(b), (c), and (j) when the following conditions are met:

   (1) Tree removal on high erosion hazard lands (Bailey's Land Capability Districts 1a, 1c, or 2 per Land Capability Classification of the Lake Tahoe Basin, California-Nevada: A Guide for Planning by R.G. Bailey, USDA Forest Service, 1974) shall only be conducted using the following
methods: helicopter, over-snow where no soil disturbance occurs, hand carry, and use of existing roads.

(2) Tree removal in Stream Environment Zones ("SEZs," Bailey’s Land Capability District 1b) and within the standard width of a WLPZ, as defined in 14 CCR § 895.1, shall be permitted as in the preceding section (f)(1).

(A) End-lining may also be used provided that soils are dry, all heavy equipment remains outside the SEZ or WLPZ, and site conditions are such that soils or vegetation will not be adversely affected and a discharge of earth materials to surface waters, SEZs, or 100-year floodplains will not occur.

(B) Other low-impact tree removal methods may be used in SEZs and WLPZs if approved by the Lahontan RWQCB prior to submittal of the exemption notice to the Department. Certification of approval by the Lahontan RWQCB and TRPA shall be provided with the exemption notice to the Department. Low-impact tree removal methods means the use of techniques for vegetation management, including tree cutting or removal, designed to minimize impacts to the soils and vegetation. Such techniques shall minimize disruption of the soil surface (soil detachment), soil compaction, and damage to vegetation. Depending on the specific site conditions (e.g. soil type, soil conditions, slopes) and the method of operation, the use of low-ground pressure logging equipment, including but not limited to, certain harvesters and forwarders, may qualify.

(C) Heavy equipment operations may be used for maintenance of existing roads, maintenance of drainage facilities or structures, or skid crossings approved pursuant to (f)(9) below.

(3) No tractor or heavy equipment (ground-based) operations on slopes greater than 30% except during over-snow operations that result in no soil disturbance.
(4) No heavy equipment operations during the winter period, except for over-snow operations that result in no soil disturbance, or use of low-impact tree removal methods approved pursuant to (f)(2) above.

(5) No new road construction or reconstruction, as defined in 14 CCR § 895.1.

(6) No tractor or heavy equipment operations on known slides or unstable areas.

(7) All cutting or removal of trees or other vegetation from within the standard width of a WLPZ shall meet the WLPZ standards of the Forest Practice Act and District Forest Practice Rules applicable to THPs, and be certified in writing by staff of the Lahontan RWQCB as complying with the soil protection and vegetation retention requirements of the Lahontan RWQCB’s Basin Plan prior to submittal of the exemption notice to the Department. Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.

(8) All Class III watercourses shall have at least a 25-foot WLPZ.

(9) No watercourse crossings of Class I or Class II watercourses except on existing bridges or existing culvert crossings. Any and all crossings proposed for Class III or Class IV watercourses shall be approved by staff of the Lahontan RWQCB and TRPA prior to operations.

(10) No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.

(11) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR § 895.1.

(12) No timber operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a significant historical or archaeological site. Information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation.

(13) The landowner shall allow access to the property for inspections by staff of the Lahontan RWQCB and TRPA.
(14) Timber operations within any Special Treatment Area, as defined in 14 CCR § 895.1, shall comply with the rules associated with Special Treatment Areas.

(15) Operations conducted in the Lake Tahoe Region under the authority of PRC § 4584(j) shall comply with requirements listed in section 14 CCR § 1038(c)(1) through (4).

(16) Operations conducted in the Lake Tahoe Region for the purpose of removing unmerchantable dead trees in amounts greater than 10% of the volume per acre from substantially damaged timberlands shall comply with 14 CCR § 1038(d)(2) through (5).

(g) The removal of woody debris and slash that is: (1) located outside the standard width WLPZ; (2) within the reach of loading equipment operating on existing logging roads and landings; (3) developed during timber operations; and (4) delivered as combustion fuel for the production of energy. Timber operations under this subsection shall comply with the conditions of section 1038(b)(3), (4), (6), (7), (8), and (10).

(h) Harvesting of large old trees shall only occur when:

(1) the tree is not critical for the maintenance of a Late Successional Stand and
(2) 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) are met. The requirements of (h)(2) 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.

(A) 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) 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) 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.

(i) The harvesting of trees in compliance with PRC § 4584(j), Forest Fire Prevention Exemption, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, when the following conditions are met:

1. The logging area does not exceed 300 acres in size.
2. The tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand.
3. The Notice of Exemption, described in 14 CCR § 1038.2, is prepared, signed and submitted by an RPF to the Director.
4. The RPF preparing the Notice of Exemption shall, upon submission of the Notice of Exemption, provide a map of the area of timber operations that complies with 14 CCR § 1034(x)(1), (3), (4), (7), (8), (9), (10), (11), (12) and (14). This map shall be submitted in place of the map required by 14 CCR § 1038.2(d).
5. The RPF shall, upon submission of the Notice of Exemption, include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels. The level of residual stocking shall be consistent with maximum sustained production of high-quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Trees retained to meet the basal area stocking standards shall be selected from the largest trees available on the project area prior to harvest. In no case shall stocking be reduced below the following standards:

(A) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 in. dbh:

{Coast}:
1. On Site I lands at least 125 sq. ft. per acre of basal area shall be left.

2. On Site II and III lands at least 100 sq. ft. per acre of basal area shall be left.

3. On Site IV lands at least 75 sq. ft. per acre of basal area shall be left.

4. On Site V lands, at least 50 sq. ft. per acre of basal area shall be left.

[Northern, Southern]:

1. On Site I mixed conifer lands at least 125 sq. ft. per acre of basal area shall be left, and on Site I land where greater than 50% of the basal area is pine, at least 100 sq. ft. per acre of basal area shall be left.

2. On Site II mixed conifer lands at least 100 sq. ft. per acre of basal area shall be left, and on Site II lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.

3. On Site III mixed conifer lands at least 75 sq. ft. per acre of basal area shall be left, and on Site III lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.

4. On Site IV and V mixed conifer lands, at least 50 sq. ft. per acre of basal area shall be left, and on Site IV and V lands where greater than 50% of the basal area is pine at least 50 sq. ft. per acre of basal area shall be left.

(B) Where the preharvest dominant and codominant crown canopy is occupied by trees less than 14 in. dbh, a minimum of 100 trees per acre over 4 in. dbh shall be retained for site I, II, and III. For site IV and V–75 trees per acre over 4 in. dbh shall be retained.

(6) The RPF shall, upon submission of the Notice of Exemption, provide the selection criteria for the trees to be removed or the trees to be retained. In the development of these criteria, and the fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations. The selection criteria shall specify how the trees to be removed, or how the
trees to be retained, will be designated. All trees to be harvested or all trees to be retained shall be marked or sample marked by, or under the supervision of, an RPF prior to felling operations. Sample marking shall be limited to homogeneous forest stand conditions typical of plantations. When trees are sample marked, the designation prescription for unmarked areas shall be in writing and the sample mark area shall include at least 10% of the harvest area to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area. (7) The RPF shall, upon submission of the Notice of Exemption, provide a Confidential Archaeological Letter, as defined in 14 CCR § 895.1, which contains all the information required for plans and Emergency Notices with the exception that the information required in 14 CCR § 929.1(c)(3)(949.1(c)(3), 969.1(c)(3)) shall not be required. The Director shall submit a complete copy of the Confidential Archaeological Letter, and two copies of any required archaeological or historical site records, to the appropriate information Center of the California Historical Resource Information System, within thirty (30) days from the date of Notice of Exemption submittal to the Director. Before submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of Exemption to Native Americans defined in 14 CCR § 895.1. (8) Only trees less than 18 inches outside bark stump diameter, measured at eight inches above ground level, may be removed except as follows: (A) Within 500 foot of an Approved and Legally Permitted Structure that complies with the California Building Code, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches outside bark stump diameter, trees less than 24 inches outside bark stump diameter may be removed if that removal complies with this section. (B) Post-harvest stand conditions shall not violate the following canopy closure requirements:
(A) Minimum post treatment canopy closure of dominant and codominant trees shall be 40 percent for east side pine forest types;

(B) Minimum post treatment canopy closure of dominant and codominant trees shall be 50 percent for coastal redwood and Douglas-fir forest types within 1/4 mile from approved and legally permitted structures that comply with the California Building Code (legal structure). Such legal structures shall be within or adjacent to a community listed in the “California Fire Alliance list of Communities at Risk” (copyright date 2003 on file in the official rulemaking file and incorporated by reference) and have densities greater than 1 structure per 20 acres;

(C) Minimum post treatment canopy closure of dominant and codominant trees shall be 50 percent for coastal redwood and Douglas-fir forest types within 500 feet of a legal structures outside the area referenced in 14 CCR § 1038(i)(9)(B);

(D) Minimum post treatment canopy closure of dominant and codominant trees shall be 60 percent for coastal redwood and Douglas-fir forest types outside areas referenced in 14 CCR § 1038 (i)(9)(B) and (C);

(E) Minimum post treatment canopy closure of dominant and codominant trees shall be 50 percent for mixed conifer and all other forest types.

(10) 

(A) This subsection applies to areas described in 14 CCR § 1038(i)(8)(A). Surface and ladder fuels in the harvest area, including logging slash and debris, brush, small trees, and deadwood, that could promote the spread of wildfire, shall be treated to achieve standards for vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:
1. Ladder and surface fuels, excluding residual stand dominant and codominant
trees, shall be spaced to achieve a vertical clearance distance of eight feet or
three times the height of the post harvest fuels, whichever is the greater
distance, measured from the base of the live crown of the post harvest dominant
and codominant trees to the top of the ladder or surface fuels, whichever is
taller.

2. Ladder fuels, excluding residual stand dominant and codominant trees, shall
be spaced to achieve horizontal clearance distance of two to six times the
height of the post harvest fuels measured from the outside branch edges of the
fuels. On ground slopes of zero percent to 20 percent horizontal clearance
distance shall be two times the height of post harvest fuels; on ground slopes of
greater than 20 percent to 40 percent horizontal clearance distance shall be four
times the height of post harvest fuels; on ground slopes of greater than 40
percent horizontal clearance distance shall be six times the height of post
harvest fuels.

3. Dead surface fuel depth shall be less than 9 inches.

4. Standing dead or dying trees and brush shall generally be removed. Such
material, along with live vegetation associated with the dead vegetation, may be
retained for wildlife habitat when isolated from other vegetation.

(B) This subsection applies to all other areas outside those described in 14 CCR §
1038(i)(8)(A).

1. Post treatment stand shall contain no more than 200 trees per acre over 3
inches in dbh, when consistent with 14 CCR § 1038(i)(9)(A)-(E).

2. Vertical spacing shall be achieved by treating dead fuels, excluding dead
branches on the trees retained for stocking, to a minimum clearance distance of
8 feet measured from the base of the live crown of the post-harvest dominant
and codominant trees to the top of the dead surface or ladder fuels, whichever
is taller.

3. All logging slash created by the timber operations shall be treated to achieve a maximum post-harvest
depth of 9 inches above the ground.

(C) The requirements of this subsection shall not supersede the requirements of PRC § 4291.

(11) Treatments for fuels shall include chipping, removing, piling, burning or other methods necessary to
achieve the standards. Treatments for any portion of the exemption area where timber operations have
occurred, except for burning operations, shall be done within one hundred and twenty (120) days from
the start of timber operations on that portion of the exemption area. Burning operations shall be
completed by April 1 of the year following surface fuel creation. Treatment of surface fuels by burning
shall be exempt from the one year time limitations described under 14 CCR § 1038.1

(12) Fuel treatments conducted under 14 CCR § 1038(i)(8),(9), (10) and (11) shall be achieved on at
least 80 percent of the treated area.

(13) Timber operations shall comply with the limits established in 14 CCR § 1038, subsections (b) (1)
through (10). Timber operations in the Lake Tahoe Region shall comply with the requirements of
paragraphs (1) to (16), inclusive of subdivision (f) of Section 1038 of Title 14 of the California Code of
Regulations.

(14) At least one inspection conducted by the Director shall be made after completion of operations.

(i) The harvesting of trees in compliance with PRC § 4584(j)(11), Forest Fire Prevention Exemption Pilot
Project, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal
continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel
ignitability, or ignition of tree crowns, when the following conditions are met:

(1) The logging area does not exceed 300 acres in size.
(2) The tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand.

(3) The Notice of Exemption is prepared, signed and submitted by an RPF to the Director. The RPF shall provide current address and telephone number on the form.

(4) The RPF preparing the Notice of Exemption shall, upon submission of the Notice of Exemption, provide a map of the area of Timber Operations that complies with 14 CCR § 1034(x)(1), (3), (4), and (7) through (12). This map shall be submitted in place of the map required by 14 CCR § 1038.2(d).

(5) The RPF shall, upon submission of the Notice of Exemption, include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Trees retained to meet the basal area stocking standards shall be selected from the largest trees available on the project area prior to harvest. In no case shall stocking be reduced below the following standards:

(A) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 in. dbh in the Coast District:

1. On Site I lands at least 125 sq.ft. per acre of basal area shall be left.
2. On Site II and III lands at least 100 sq.ft. per acre of basal area shall be left.
3. On Site IV lands at least 75 sq.ft. per acre of basal area shall be left.
4. On Site V lands, at least 50 sq.ft. per acre of basal area shall be left.

(B) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 in. dbh in the Northern and Southern Districts:
1. On Site I mixed conifer lands, at least 125 sq. ft. per acre of basal area shall be left, and on Site I lands where greater than 50% of the basal area is pine, at least 100 sq. ft. per acre of basal area shall be left.

2. On Site II mixed conifer lands, at least 100 sq. ft. per acre of basal area shall be left, and on Site II lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.

3. On Site III mixed conifer lands, at least 75 sq. ft. per acre of basal area shall be left, and on Site III lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.

4. On Site IV and V mixed conifer lands, at least 50 sq. ft. per acre of basal area shall be left, and on Site IV and V lands where greater than 50% of the basal area is pine, at least 50 sq. ft. per acre of basal area shall be left.

(C) Where the preharvest dominant and codominant crown canopy is occupied by trees less than 14 in. dbh, a minimum of 100 trees per acre over 4 in. dbh shall be retained for site I, II, and III. For site IV and V - 75 trees per acre over 4 in. dbh shall be retained. The retained trees shall be the largest trees available prior to harvest.

(6) The RPF shall, upon submission of the Notice of Exemption, provide the selection criteria for the trees to be removed or the trees to be retained. In the development of those criteria, and the fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations. The selection criteria shall specify how the trees to be removed, or how the trees to be retained, will be designated. All trees to be harvested or all trees to be retained shall be marked or sample marked by, or under the supervision of, an RPF prior to felling operations. Sample marking shall be limited to homogeneous forest stand conditions typical of plantations. When trees are sample marked, the designated prescription for unmarked areas shall be in
writing and the sample mark area shall include at least 10% of the harvest area to a maximum of
20 acres per stand type which is representative of the range of conditions present in the area.

(7) The RPF shall, upon submission of the Notice of Exemption, provide a Confidential
Archaeological Letter which contains all the information required for plans and Emergency
Notices with the exception that the information required in 14 CCR § 929.1(c)(3) (949.1(c)(3),
969.1(c)(3)) shall not be required. The Director shall submit a complete copy of the Confidential
Archaeological Letter, and two copies of any required archaeological or historical site records, to
the appropriate Information Center of the California Historical Resource Information System,
within thirty (30) days from the date of Notice of Exemption submittal to the Director. Before
submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of
Exemption to Native Americans defined in 14 CCR § 895.1.

(8) Only trees less than twenty-six (26) inches outside bark stump diameter, measured at eight
inches above ground level, may be removed.

(9) Post harvest stand conditions shall not violate the following canopy closure requirements:
   (A) Minimum post treatment canopy closure of dominant and codominant trees shall be
       40 percent for east side pine forest types;
   (B) Minimum post treatment canopy closure of dominant and codominant trees shall be
       50 percent for coastal redwood and Douglas-fir forest types within 1/4 mile from
       approved and legally permitted structures that comply with the California Building Code
       (legal structure). Such legal structures shall be within or adjacent to a community listed
       in the “California Fire Alliance List of Communities at Risk” (copyright date 2003) and
       have densities greater than 1 structure per 20 acres;
   (C) Minimum post treatment canopy closure of dominant and codominant trees shall be
       50 percent for coastal redwood and Douglas-fir forest types within 500 feet of legal
       structures outside the area referenced in 14 CCR § 1038(j)(0)(B);
(D) Minimum post treatment canopy closure of dominant and codominant trees shall be 60 percent for coastal redwood and Douglas-fir forest types outside areas referenced in 14 CCR § 1038(j)(9)(B) and (C);

(E) Minimum post treatment canopy closure of dominant and codominant trees shall be 50 percent for mixed conifer and all other forest types.

(10)

(A) Post treatment stand shall contain no more than 200 trees per acre over 3 inches in dbh, when consistent with 14 CCR § 1038(j)(9)(A) through (E).

(B) Vertical spacing shall be achieved by treating dead fuels, excluding dead branches on the trees retained for stocking, to a minimum clearance distance of 8 feet measured from the base of the live crown of the post harvest dominant and codominant trees to the top of the dead surface or ladder fuels, whichever is taller.

(C) All logging slash created by the timber operations shall be treated to achieve a maximum post harvest depth of 18 inches above the ground.

(D) Fuel treatments conducted under 14 CCR § 1038(j)(10)(A), (B), and (C) shall be achieved on at least 80 percent of the treated area.

(E) The requirements of this subsection shall not supersede the requirements of PRC § 4291.

(11) Treatments for fuels shall include chipping, removing, piling, burning or other methods necessary to achieve the standards. Treatments for any portion of the exemption area where timber operations have occurred, except for burning operations, shall be done within one hundred and twenty (120) days from the start of timber operations on that portion of the exemption area. Burning operations shall be completed in conformance with 14 CCR § 917.2(a)
[937.2(a), 957.2(a)]. Treatment of surface fuels by burning shall be exempt from the one year time limitations described under 14 CCR § 1038.1.

(12) Timber operations shall comply with the limits established in 14 CCR § 1038, subsections (b)(1) through (10).

(13) At least one inspection conducted by the Director shall be made after completion of operations.

(14) This exemption can be used in the following geographic locations: the counties of Alpine, Amador, Butte, Calaveras, Del Norte, El Dorado, Fresno, Humboldt, Inyo, Kern, Lassen, Madera, Mariposa, Mendocino, Modoc, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Sonoma, Tehama, Trinity, Tulare, Tuolumne, or Yuba, or in any combination of these areas.

(15) All activities conducted pursuant to 14 CCR § 1038(j) occur within the most recent version of the department's Fire Hazard Severity Zone Map in the moderate, high, and very high fire threat zones.

(16) The department shall maintain records regarding the use of the Forest Fire Prevention Exemption Pilot Project exemption in order to evaluate the impact of it on fuel reduction and natural resources in areas where it has been used.

(17) Timber operations shall comply with the limits established in 14 CCR § 1038, subsections (b)(1) through (10). Timber operations in the Lake Tahoe Region shall comply with the requirements of paragraphs (1) to (16), inclusive of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(18) 14 CCR § 1038(j) shall expire on January 1, 2021.

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

1. The exemption shall include the requirements of 14 CCR § 1038.2(a)-(c), total acreage of the exemption Harvest Area (as defined in 14 CCR § 895.1), and an enlarged 7 1/2 minute quadrangle map or its equivalent that is not less than one (1) inch equals 1,000 feet showing the location of the Harvest Area, which means the area in which trees are expected to be felled and removed within the one (1) year effective period of this exemption. For projects that require a Registered Professional Forester (RPF), pursuant to 14 CCR § 1038(k)(7), the location of Timber Operations and Watercourses, including watercourse classification, shall also be shown on this map. In addition to the supplementary mapping requirement when an RPF is required, a narrative describing the pattern of mortality shall be provided.

2. The exemption shall include a certification of ownership signed by the Timberland Owner.

3. Trees eligible for removal shall meet one or more of the following conditions:

   A. Trees that are dead, or,

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

   C. The RPF, in writing, in the Notice of Exemption, certifies the following:

      1. Trees are designated, by an RPF or Supervised Designee, with a stump mark, as likely to die due to drought related stress within one year, or,

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

      3. Trees marked by an RPF in accordance 14 CCR § 1038(h).
(4) Slash shall be Lopped for Fire Hazard Reduction, pursuant to the definition in 14 CCR § 895.1. Lopping for Fire Hazard Reduction means severing and spreading slash so that no part of it generally remains more than 30 inches above the ground.

(5) Retain an average for the Harvest Area of not less than one (1) Decadent and Deformed Tree of Value to Wildlife (as defined in 14 CCR § 895.1), Snag, or Dying Tree per acre that is greater than sixteen (16) inches DBH (diameter breast height) and twenty (20) feet tall. This provision does not apply within one hundred (100) feet of habitable structures, roads, fire suppression ridges, and infrastructure facilities such as transmission lines and towers, or water conveyance and storage facilities.

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

(7) The exemption shall be submitted by an RPF, and include the following when Timber Operations on a cumulative Harvest Area exceed twenty (20) acres per total contiguous ownership:

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

(B) RPF certification that no conditions were identified where operations, conducted in compliance with the rules of the Board, would reasonably result in significant adverse effects.
(8) The Department shall monitor and report on the statewide use of the exemption, allowed under 14 CCR § 1038(k), including the number of Harvest Area acres, the areas of application and the degree of compliance. The Department shall, at a minimum, annually report its findings to the Board.

(9) 14 CCR § 1038(k) shall expire on December 31, 2021.

(le) The cutting or removal of trees to restore and conserve California black (Quercus kelloggii) or Oregon white (Quercus garryana) oak woodlands and associated grasslands, if all the following requirements are met:

1. The Harvest Area does not cumulatively exceed, during any five (5) year period, three-hundred (300) acres per ownership in a Planning Watershed (CALWATER 2.2), for the timberland owner(s) identified pursuant to 14 CCR § 1038.2(b)(1)(a)(2).

2. An RPF shall prepare the Notice of Exemption and submit it to the Director. Upon submission, the Notice of Exemption shall include:

   (A) All information required pursuant to 14 CCR § 1038.2 (a)-(c) and, total Total acreage of the exemption Harvest Area per Planning Watershed (CALWATER 2.2).

   (B) A map of the area of timber operations that complies with 14 CCR § 1034(x)(1), (3), (4), (7)-(8), (9), (10), (11) and (14).

   (CB) A description of the pre-harvest and post-harvest stand structure including an estimate, by species, of Diameter distribution, and basal area.

   (DC) A certification that states:

   1. That a minimum of thirty-five (35) square feet of basal area per acre of California black or Oregon white oak, or both, occupy the Harvest Area prior to Timber Operations; and

   2. That the proposed Timber Operations are designed to restore and conserve California black oak and Oregon white oak and associated grasslands.
(E) A Confidential Archaeological Letter which contains all the information required for plans and Emergency Notices with the exception that the information required in 14 CCR § 929.1(c)(3), [949.1(c)(3), 969.1(c)(3)] shall not be required. The Director shall submit a complete copy of the Confidential Archaeological Letter and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System, within thirty (30) days from the date of Notice of Exemption submittal to the Director. Before submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of Exemption to Native Americans defined in 14 CCR § 895.1.

(3) No trees larger than twenty-six (26) inches outside bark stump Diameter, measured eight (8) inches above ground level may be removed for commercial purposes.

(4) The post-harvest stand shall meet, at a minimum, the following criteria:

(A) A minimum of eighty (80) percent of the pre-treatment basal area of California black oak or Oregon white oak, or both, shall be retained; and

(B) A minimum of thirty-five (35) square feet of basal area of California black oak or Oregon white oak, or both, shall be retained; and

(C) Conifer Stocking, measured in basal area, shall represent less than twenty-five (25) percent of the total onsite Stocking of all trees within the Harvest Area. Decadent and Deformed Trees of Value to Wildlife (excluding hardwoods) shall not count towards this required Stocking Standard.

(D) All harvested conifers shall be within three-hundred (300) feet of a California black oak or Oregon white oak that is a minimum of four (4) inches dbh.

(E) All Slash created by the Timber Operations shall be lopped, removed, chipped, piled for burning, or otherwise treated, within one (1) year from the date of the Director receiving the notice except for burning. Burning shall be completed within two (2) years.
from the date of the Director receiving the notice and is exempt from the one year time
limitations described under 14 CCR § 1038.1. Slash shall be treated to achieve a
maximum post-harvest depth of eighteen (18) inches above the ground and
Notwithstanding Slash requirements pursuant to 14 CCR § 1038.1(e)(3), all Slash shall
be configured in a manner that minimizes risk of fire related mortality to all retained
California black oak and Oregon white oak.

(5) Timber Operations shall comply with the limits established in 14 CCR § 1038, subsection
(b)(1)-(10).

(6) An notice of exemption pursuant to 14 CCR § 1038(l) this subsection is not applicable to
timberlands within the Southern Sub-District of the Coast Forest District as defined in 14 CCR §
895.1, or the Southern Forest District as defined in 14 CCR § 909.

(7) 14 CCR § 1038(l) shall become inoperative on January 1, 2024.

(f) The cutting or removal of trees that eliminates the vertical continuity of vegetative fuels and the
horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a
Fuelbreak. An exemption pursuant to this subdivision shall be known as the Small Timberland Owner
Exemption. The cutting or removal of trees in compliance with this subdivision shall be subject to all of
the following conditions:

(1) A notice of exemption pursuant to this subsection is limited to small forest landowners who
own:

[A] Sixty (60) acres or less of timberland within a single pPlanning wWatershed (CALWATER 2.2) within the Coast Forest District, or;

[B] One-hundred (100) acres or less of timberland within a single pPlanning wWatershed (CALWATER 2.2) within the Northern or Southern Forest Districts.

Commented [DM2]: Need to have a discussion on clarity. Compare to language in Oak Woodland
Restoration exemption.
(2) The RPF shall, upon submission of the notice of exemption, include a description of the pre-
harvest stand structure and a statement of the minimum expected post-harvest stand Stocking
levels. The residual stand shall consist primarily of healthy and vigorous dominant and
codominant trees from the pre-harvest stand, well distributed throughout the Harvest Area.

Minimum post-harvest Stocking Standards shall be achieved through Unevenaged
Management, excluding group selection, and shall be as follows:

(A) On Site I lands, a minimum of one-hundred-fifty (150) square feet of basal area shall
be retained within the Coast Forest District, while a minimum of one-hundred (100)
square feet of basal area shall be retained within the Northern and Southern Forest
Districts.

(B) On Site II lands, a minimum of one-hundred (100) square feet of basal area shall be
retained within the Coast Forest District, while a minimum of seventy-five (75) square
feet of basal area shall be retained within the Northern and Southern Forest Districts.

(C) On Site III lands, a minimum of seventy-five (75) square feet of basal area shall be
retained.

(D) On Site IV and V lands, a minimum of fifty (50) square feet of basal area shall be
retained.

(3) The QMD of trees greater than eight (8) inches dbh in the pre-harvest Harvest Areashall be
increased in the post-harvest stand. The submitted notice of exemption shall report the
expected post-harvest increase in QMD.

(4) Only trees less than thirty-two (32) inches outside bark stump Diameter, measured at eight
inches above ground level, may be removed, with the following exception:

(A) No trees of the genus Quercus sp. that are greater than twenty-six (26) inches
outside bark stump Diameter, measured at eight (8) inches above ground level, may be
removed.
(5) The six (6) largest trees per acre within the boundaries of the notice of exemption shall be retained.

(6) The post-harvest tree species composition shall be representative of the pre-harvest stand condition and demonstrate progression towards climax forest conditions, unless the RPF provides a justification explaining how modification of the tree species diversity will benefit forest health and resiliency.

(7) All trees to be harvested, or all trees to be retained, shall be marked by a RPF, or their Supervised Designee, prior to commencing timber felling.

(8) Timber Operations conducted under a notice of exemption pursuant this subdivision shall only occur once over a ten (10) year period on any given acre. During this ten (10) year period, the Director shall not approve a Plan that allows for an even-aged silvicultural prescription(s) or a RPF shall not submit a notice of exemption pursuant to 14 CCR § 1038.4 for acres where Timber Operations occurred under a notice of exemption pursuant to this subsection.

(9) The Department shall only accept three (3) or fewer notices of exemption pursuant to this subsection submitted on behalf of a timberland owner.

(a)(g) Harvesting dead or Dying Trees of any size to facilitate the removal of hazardous material and the reconstruction or construction of Approved and Legally Permitted Structures that were damaged or destroyed by wildfire in the Counties of Lake, Siskiyou, Mendocino, Shasta, Trinity, and Napa during 2018. The provisions of a Notice of Exemption submitted pursuant to this subsection supersede the provisions of any other Notices of Exemption that are submitted in the same Harvest Area. In addition to compliance with 14 CCR §§ 1038(b)(1)-(10) and 1038.1 (c)(5) through (12) inclusive, the following apply:

(1) Only trees within three-hundred (300) feet from any point of an Approved and Legally Permitted Structure that was damaged or destroyed by wildfire may be harvested.

(2) The Notice of Exemption shall include:
(A) the requirements of 14 CCR § 1038.2(a)-(c);

(B) the total acreage of the Harvest Area;

(C) an enlarged seven-and-one-half (7½) minute quadrangle map, or its equivalent, that is not less than one (1) inch equals one-thousand (1,000) feet showing the location of the boundaries of the Harvest Area;

(D) a certification of ownership signed by the timberland owner; and

(E) the tentative commencement date of Timber Operations.

(3) Timer Operations conducted under this subsection shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances within which the Harvest Area is located. The Timber Operator or timberland owner shall certify that the city or county has been contacted and the Timber Operations conducted under the Notice notice of Exemption exemption conforms with all city or county regulatory requirements.

(4) All Slash and Woody Debris greater than one (1) inch but less than eight (8) inches in diameter within one-hundred-fifty (150) feet of an Approved and Legally Permitted Structure that was damaged or destroyed by wildfire shall be removed, chipped or piled and burned.

(5) All Slash created between one-hundred-fifty (150) feet and three-hundred (300) feet of an Approved and Legally Permitted Structure that was damaged or destroyed by wildfire shall be treated by Lopping for Fire Hazard Reduction, removed, chipped or piled and burned within forty-five (45) days from the start of Timber Operations; except for the burning of piles, which shall be accomplished not later than April 1 of the year following their creation; or for piles created on or after September 1, not later than April 1 of the second year following creation.

(6) Except where necessary for safety, retain an average for the Harvest Area of not less than one (1) Decadent and Deformed Tree of Value to Wildlife, Snag, or Dying Tree per acre that is greater than sixteen (16) inches dbh and twenty (20) feet tall. This provision does not apply within one-hundred-fifty (150) feet of Approved and Legally Permitted Structures, roads, fire
suppression ridges and infrastructure facilities such as transmission lines and towers, or water
conveyance and storage facilities.

(7) The Director shall notify the submitter of the date of the Director's receipt of the Notice of Exemption. Timber Operations pursuant to the Notice of Exemption may not commence for five (5) working days from the date of the Director's receipt of the Notice of Exemption unless this delay is waived by the Director. If the Notice of Exemption is not complete and accurate, the Director shall notify the submitter within five (5) working days from the date of the Director's receipt, and the Timber Operations may not commence. The Director shall determine whether the Notice of Exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter; provided, however, if the Director does not act within five (5) working days of receipt of the Notice of Exemption, Timber Operations may commence.

(A) Timber Operations may not be conducted without a copy of the accepted Notice of Exemption at the operating site, except where the Director has failed to act within the five (5) working day review period.

§ 1038.1. Compliance with Act and Rules.

a) A Person conducting Timber Operations under any exemption as described in 14 CCR § 1038, shall:

(1) be limited to one year from the date of receipt by the Department, and;

(2) shall comply with all operational provisions of the Forest Practice Act and District Forest
Rules applicable to "Timber Harvest Plan", "THP", and "Plan".

(3) Before beginning Timber Operations, the Timber Operator 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.

(b) In-lieu practices of Watercourse and Lake Protection Zones as specified under Article 6 of these
Rules, exceptions to Rules, and alternative practices are not allowed.

§ 1038.1. Additional Exceptions or Requirements
Preparation or submittal of a notice of exemption described in 14 CCR § 1038, or Timber Operation
thereunder, shall comply with the additional exceptions or requirements as described.

(a) A notice of exemption, pursuant to 14 CCR § 1038, shall be submitted to the Director, on a
form provided by the Department, prior to the commencement of Timber Operations. The
form shall contain the following information:

(1) The type of exemption.
(2) Name(s), address, and telephone number(s) of the Timber Owner(s), timberland
owner(s), and Timber Operator,
(3) Name, address, and telephone number and license number of the RPF, if applicable,
(4) Legal description of the location of the Timber Operation.
(5) The tentative date of commencement of Timber Operations.
(6) A signature of the landowner certifying that they are the landowner and have read and
understand the information contained within the notice of exemption.

(b) For notices of exemption pursuant to 14 CCR §§ 1038, the additional requirements apply:

(1) 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, which such a permit is required by TRPA.
(2) The Department shall provide the appropriate RWQCB, CDFW, and CGS with copies of
the submitted notice of exemption.
(3) No helicopter yarding shall be allowed.

(c) The following additional exceptions or requirements apply to prepared, submitted, or a Timber Operation conducted under a notice of exemption as provided in Table 1 below.

<table>
<thead>
<tr>
<th>Table 1: Additional Exceptions or Requirements</th>
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<tbody>
<tr>
<td>Applicable Exceptions or Requirements</td>
</tr>
<tr>
<td>14 CCR § 1038.1(c)(1)</td>
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<tr>
<td>14 CCR § 1038.1(c)(2)</td>
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<td>14 CCR § 1038.1(c)(3)</td>
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<td>14 CCR § 1038.1(c)(4)</td>
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<tr>
<td>14 CCR § 1038.1(c)(5) through (14)</td>
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<tr>
<td>14 CCR § 1038.1(c)(15)</td>
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</table>

(1) The notice of exemption shall be prepared, signed, and submitted to the Department by a RPF.

(2) Upon submission of the notice of 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 exemption to Native Americans as defined in 14 CCR § 895.1.

(3) No Timber Operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a Significant Archaeological or Historical Site (information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation), except under the following conditions:
(A) If a Significant Archaeological or Historical Site is identified by the RPF preparing the notice of exemption within the project boundary, the site may be preserved in place by capping or covering with a layer of soil prior to submission.

(B) If a site has been preserved in place, the RPF preparing the notice of exemption shall obtain written concurrence from a Department archeologist prior to submission indicating operations will not cause damage to a Significant Archaeological or Historical Site.

(C) The written concurrence from a Department archeologist shall be submitted with the notice of exemption.

(4) All Slash created by the Timber Operations shall be lopped, removed, chipped, piled for burning, or otherwise treated, within one (1) year from the date of the Director receiving the notice except for burning. Burning shall be completed within two (2) years from the date of the Director receiving the notice and is exempt from the one (1) year time limitations described under 14 CCR § 1038.1. Slash shall be treated to achieve a maximum post-harvest depth of eighteen (18) inches above the ground.

(5) No tractor or heavy equipment operations on slopes greater than fifty (50) percent.

(6) Timber operations within any Special Treatment Area shall comply with the rules associated with that Special Treatment Area.

(7) No tractor or heavy equipment operations on known slides or Unstable Areas.

(8) No new road construction or reconstruction, as defined in 14 CCR § 895.1.

(9) No heavy equipment operations within the standard width of a WLPZ, as defined in 14 CCR § 916.4 [936.4, 956.4] (b), except for maintenance of roads and Drainage Facilities or structures.
(10) No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.

(11) No Timber Operations within the buffer zone of a Sensitive Species.

(12) No timber harvesting within the standard width of a WLPZ, as defined in 14 CCR § 916.4 [936.4, 956.4] (b), except sanitation-salvage harvesting, as defined in 14 CCR § 913.3 [933.3, 953.3], where immediately after completion of operations, the area shall meet the Stocking Standards of 14 CCR § 912.7 [932.7, 952.7] (b)(2), or, except the removal of dead or dying trees where consistent with 14 CCR § 916.4 [936.4, 956.4] (b). Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to Timber Operations.

(13) Before beginning Timber Operations, the LTO, person, or RPF responsible for submittal of the notice of exemption shall notify the Department, the appropriate RWQCB, the CDFW, and the CGS 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.

(14) The Director shall notify the submitter of the date of the Director's receipt of the notice of exemption. Timber Operations pursuant to the notice of exemption may not commence for five (5) working days from the date of the Director's receipt of the notice of exemption unless this delay is waived by the Director. If the notice of exemption is not complete and accurate, the Director shall notify the submitter within five (5) working days from the date of the Director's receipt, and the Timber Operations may not commence. The Director shall determine whether the notice of exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter, provided,
however, if the Director does not act within five (5) working days of receipt of the notice of exemption, Timber Operations may commence.

(A) Timber Operations may not be conducted without a copy of the Director’s notice of acceptance of the notice of exemption at the operating site, except where the Director has failed to act within the five (5) working-day review period.

(15) No large old trees, defined as a tree that existed before 1800 AD or is greater than sixty inches in Diameter at stump height for Sierra or Coast Redwoods, and forty-eight inches in Diameter at stump height for all other tree species or Decadent and Deformed Trees with Value to Wildlife shall be harvested unless the following apply:

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

(B) A RPF attached to the submitted notice of exemption a written explanation and justification for the harvest of the tree based on the RPF’s finding of any of the following:

(i) The tree is a hazard to safety or property.

(ii) The removal of the tree is necessary for the construction of a building as approved by the appropriate local jurisdiction and shown on the county or city approved site plan, which shall be attached to the submitted notice of exemption.

(iii) The tree is dead or likely to die within one (1) year of the date of the proposed removal, as determined by a RPF.

§ 1038.2. Exemption Form.

A Person submitting an exemption under 14 CCR § 1038 shall submit to the Director a notice of proposed Timber Operations, prior to commencement of Timber Operations, on a form provided by the Department. The form shall contain the following information:
(a) Type of operation to be conducted.

(b) Names, address, and telephone numbers of the Timber Owner, Timberland owners, and Timber Operator.

(c) Legal description of the location of the Timber Operation.

(d) A 7 1/2 minute quadrangle map or its equivalent showing the location of the Timber Operation.

(e) The tentative commencement date of timber operations.

(f) In addition to (a) through (e) above, the following shall be included for exemptions conducted under 14 CCR § 1038(e):

(1) A certification by the Timber Operator, Timberland owner, or if applicable the RPF, that the city or county within which the exemption is located has been contacted and the exemption is in conformance with all city or county regulatory requirements.

(2) A notification to the landowner stating the fuel treatment requirements and enforcement procedures under this exemption.

(3) A signature of the landowner certifying that they are the landowner and have read and understand the information on the exemption form.

(4) A larger scale map such as an assessor parcel map showing the location of the Timber Operation.

(g) In addition to (a) through (f) above, the following shall be included for exemptions conducted under 14 CCR § 1038(e)(6):

(1) Name, address, telephone and License number of the RPF that prepared and submitted the exemption notice.

(2) The site class, an estimate of pre and post-harvest QMD, and a description of the post-harvest Stocking Standards consistent with 14 CCR §§ 913.2 (933.2), 953.2.

(3) A certification by an RPF that the post-harvest Slash treatment and stand conditions will lead to more moderate fire behavior.

A submitted notice of exemption shall include an enlarged seven-and-one-half (7½) minute USGS
quadrangle map, or its equivalent, that is not less than one (1) inch equals one-thousand (1,000) feet,
depicting the information as required in Table 2 below. 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 subsection (b) may be
shown on a map which may be planimetric with a scale as small as one-half inch equals one mile. Color
coding shall not be used. A legend shall be included indicating the meaning of the symbols used. The
submitted notice of exemption shall indicate if more than one Yarding system is to be used and identify
the systems (if more than one is used).
Table 2: Mapping Requirements

<table>
<thead>
<tr>
<th>Applicable Mapping Requirements</th>
<th>Notice of Exemption Type(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 CCR § 1038.2 (a)</td>
<td>14 CCR § 1038 (a) &amp; (c)</td>
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<tr>
<td>14 CCR § 1038.2 (b), (c), (k)</td>
<td>14 CCR § 1038 (b), (c)(6), (d), (e), and (f)</td>
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<td>14 CCR § 1038.2 (d) through (f)</td>
<td>14 CCR § 1038(c)(6) through (f)</td>
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<tr>
<td>14 CCR § 1038.2 (g), (h), and (i)</td>
<td>14 CCR § 1038 (c)(6), (e), and (f)</td>
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<tr>
<td>14 CCR § 1038.2 (l)</td>
<td>14 CCR § 1038 (b) through (f)</td>
</tr>
<tr>
<td>14 CCR § 1038.2 (l)</td>
<td>14 CCR § 1038(f)</td>
</tr>
</tbody>
</table>

(a) Boundaries of the Harvest Area.
(b) Boundaries of the Logging Area.
(c) Location of all roads to be used for, or potentially impacted by Timber Operations.
(d) The classification of all roads as Permanent Roads, Seasonal Roads, or Temporary Roads.
(e) Road(s) and Landing(s) located in a Watercourse, Lake, WLPZ, marshes, or Wet Areas and Other Wet Areas other than at road Watercourse crossings.
(f) Location of water drafting sites.
(g) Public Roads within one-quarter (¼) mile of the Harvest Area.
(h) Location of portions of the Harvest Area with an Extreme Erosion Hazard Rating.
(i) Location of all Watercourses and Lakes with Class I, II, II or IV waters.
(j) Location of known Unstable Areas or Slide Areas.
(k) Location of Coastal Commission Special Treatment Areas or any Special Treatment Areas.
(l) Location of boundaries of timber-site classes needed for determination of Stocking Standards to be applied, down to at least a twenty (20) acre minimum or as specified in District Forest Practice Rules.
Adopt: 14 CCR § 1038.6. Post-Fire Recovery Exemption

(a) Harvesting dead or Dying Trees of any size to facilitate the removal of hazardous material and the reconstruction or construction of Approved and Legally Permitted Structures that were damaged or destroyed by wildfire in the Counties of Lake, Siskiyou, Mendocino, Shasta, Trinity, and Napa during 2018. The provisions of a Notice notice of Exemption exemption submitted pursuant to this subsection supersede the provisions of any other Notice notices of Exemption exemption that are submitted in the same Harvest Area. In addition to compliance with 14 CCR §§ 1038(b)(1)-(10) and 1038.1 (c)(5) through (12) inclusive, the following apply:

(1) Only trees within three-hundred (300) feet from any point of an Approved and Legally Permitted Structure that was damaged or destroyed by wildfire may be harvested.

(2) The Notice notice of Exemption exemption shall include:

(A) the requirements of 14 CCR § 1038.2(a)-(c);

(B) the total acreage of the Harvest Area;

(C) an enlarged seven-and-one-half (7½) minute USGS quadrangle map, or its equivalent, that is not less than one (1) inch equals one-thousand (1,000) feet showing the location of the boundaries of the Harvest Area;

(D) a certification of ownership signed by the timberland owner and;

(E) the tentative commencement date of Timber Operations.

(3) Timer Operations conducted under this subsection shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances within which the Harvest Area is located. The Timber Operator or timberland owner shall certify that the city or county has been contacted and the Timber Operations conducted under the Notice notice of Exemption exemption conforms with all city or county regulatory requirements.
(4) All Slash and Woody debris greater than one (1) inch but less than eight (8) inches in Diameter within one-hundred-fifty (150) feet of an Approved and Legally Permitted Structure that was damaged or destroyed by wildfire shall be removed, chipped or piled and burned.

(5) All Slash created between one-hundred-fifty (150) feet and three-hundred (300) feet of an Approved and Legally Permitted Structure that was damaged or destroyed by wildfire shall be treated by Lopping for Fire Hazard Reduction, removed, chipped or piled and burned within forty-five (45) days from the start of Timber Operations; except for the burning of piles, which shall be accomplished not later than April 1 of the year following their creation; or for piles created on or after September 1, not later than April 1 of the second year following creation.

(6) Except where necessary for safety, retain an average for the Harvest Area of not less than one (1) Decadent and Deformed Tree of Value to Wildlife, Snag, or Dying Tree per acre that is greater than sixteen (16) inches dbh and twenty (20) feet tall. This provision does not apply within one-hundred-fifty (150) feet of Approved and Legally Permitted Structures, roads, fire suppression ridges and infrastructure facilities such as transmission lines and towers, or water conveyance and storage facilities.

(7) The Director shall notify the submitter of the date of the Director's receipt of the Notice of Exemption. Timber Operations pursuant to the Notice of Exemption may not commence for five (5) working days from the date of the Director's receipt of the Notice of Exemption unless this delay is waived by the Director. If the Notice of Exemption is not complete and accurate, the Director shall notify the submitter within five (5) working days from the date of the Director's receipt, and the Timber Operations may not commence. The Director shall determine whether the Notice of Exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter; provided, however, if the Director does not act within five (5) working days of receipt of the Notice of Exemption, Timber Operations may commence.
(A) Timber Operations may not be conducted without a copy of the accepted Notice
notice of Exemption exemption at the operating site, except where the Director has
failed to act within the five (5) working day review period.