

Board of Forestry and Fire Protection

**Notice of Proposed Emergency Action,
(pursuant to GOV § 11346.1)**

“Emergency Rulemaking to for Exemption Amendments, 2019”

Notice Date: XXXX

The Board of Forestry and Fire Protection (hereafter “Board”) has adopted emergency regulations to restructure, modify, and standardize existing, and create new, exemptions from the plan preparation and submission requirements (PRC § 4581) and from the completion report and stocking report requirements (PRC §§ 4585 and 4587) of the Forest Practice Act, to person(s) engaging in specified forest management activities. This action is being taken in accordance with GOV §§ 11346.1, 11346.5 (2) through (6) inclusive, and 11349.6. The Board adopted the emergency regulation at their regular meeting scheduled on January 23, 2019.

If you wish to comment on the adopted emergency regulations, you must submit the comment directly to the Office of Administrative Law (hereafter “OAL”) within **five (5) calendar days** of OAL’s posting of the proposed emergency regulations on the OAL web site. You may submit comments on the adopted emergency regulations to:

Mail:

OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, California 95814

Fax:

(916) 323-6826

E-mail:

staff@oal.ca.gov.

OAL will accept all comments submitted by the specified deadline.

When you submit a comment to OAL, you must also submit a copy of your comment to the rulemaking agency’s specified contact person provided below.

Mail:

Eric Hedge
Regulations Coordinator
Board of Forestry and Fire Protection

P.O. Box 944246
Sacramento, CA 944244-2460

Fax:
(916) 653-0989

E-mail:
publiccomments@BOF.ca.gov

This regulation will likely be submitted to the Office of Administrative Law on or after **February 4, 2019**. **If the regulation is submitted to OAL on that date, the public comment period closes on February 11, 2019.**

OAL will confirm that the agency has received the comment. Pursuant to Title 1, California Code of Regulations, §§ 55(b)(1) through (4), the comment must state that it is about an emergency regulation and include the topic of the emergency.

The Board is not required and, in this instance, not likely to respond to comments submitted. However, should the Board choose to respond, it must submit its response to OAL within **eight (8) calendar days** following the date of submission of the proposed emergency regulation to OAL, unless specific exceptions are applicable. [Title 1 CCR § 55].

Pursuant to **GOV § 11346.1(a)(2)(A)**, the specific rule text associated with the proposed action immediately follows this notice.

Pursuant to **GOV § 11346.1(b)(2)**, following is a description of the facts demonstrating the existence of an emergency and the need for immediate action, and demonstrating, by substantial evidence, the need for the proposed regulation to effectuate the statute being implemented, interpreted, or made specific and to address only the demonstrated emergency.

On September 21, 2018, the Governor signed Senate Bill 901 (Chapter 626, 2018), which was promptly filed with the Secretary of State and became effective on January 1, 2019. The bill addressed various forest health and management issue with the stated intent of "...improv[ing] forest health and reduc[ing] the risk and intensity of wildfires, thereby protecting the state from loss of life and property damage, reducing greenhouse gas emissions, enhancing ecosystem function, improving wildlife habitats, increasing water supply, improving water quality, reducing the amount of money the state must spend on wildfire response and rebuilding, and increasing carbon sequestration in [the state's] forests."

The bill identifies several urgent matters related to forest health and management, including declarations that "[i]t is the policy of the state to encourage prudent and responsible forest resource management by increasing the pace and scale of fuel reduction, thinning, and the use of prescribed fire as directed by Governor Brown's Executive Order B-52-18", and that "California's small timberland owners find it difficult to practice sustainable forest management on their private family ownerships". SB 901 addresses these findings through various statutory schemes, including the revision of the regulatory exemptions from the Forest Practice Act

which are available to the Board, the creation of an entirely new regulatory exemption, and revisions to existing permitting documents and mechanisms which are available to forest landowners, including the small, nonindustrial landowners throughout the state.

Within SB 901, the legislature required that the regulations which the Board adopts “..pursuant to the provisions of this act relating to the Z’berg-Nejedly Forest Practice Act of 1973, established in Article 1 (commencing with Section 4511) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code, shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code”, and goes on to further find that the “...**adoption of the initial regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.**”¹ (Emphasis added.)

The Board concurs with this finding that the adoption of regulations related to these provisions are an emergency and are necessary for the preservation of the public peace, health, safety, and general welfare in the state. The Board adopted these as emergency regulations pursuant to the authority under SEC. 46 of SB 901.

As further background, SB 901 amended sections of the Public Resources Code, including sections of the Z’berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511) (Forest Practice Act). The sections amended by SB 901 included Sections 4584, 4584.1, and 4584.2, which describe exemptions to the Forest Practice Act (FPA) which may be adopted as regulation by the Board.

Pursuant to **GOV § 11342.545**, this situation calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

The Board is proposing action to amend 14 CCR §§ 1038, 1038.1, 1038.2, and adopt 14 CCR §§ 1038.3, 1038.4, 1038.5, and 1038.6.

Pursuant to **GOV § 11346.1(b)(2)**, following is the list of each technical, theoretical and empirical study, report, or similar documents, if any, upon which the Board relied to make the “emergency” finding:

¹ SEC. 46 of SB 901 states, in its entirety: “The regulations that the State Board of Forestry and Fire Protection adopts pursuant to the provisions of this act relating to the Z’berg-Nejedly Forest Practice Act of 1973, established in Article 1 (commencing with Section 4511) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code, shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the initial regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. The board may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted or readopted under this section shall remain in effect until revised by the board.”

Senate Bill No. 901, Chapter 626, Signed by the Governor September 21, 2018,
Filed with the Secretary of State September 21, 2018

Governor issued Executive Order "B-52-18" issued May 10, 2018

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 11346.5(a)(2)** (the reference to the authority(s) under which the regulation is proposed and a reference(s) to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific).

14 CCR § 1038 Note: Authority cited: Sections 4551, 4553, and 4584 Public Resources Code. Reference: Sections 4290, 4291, 4516, 4527, 4584, 4584.1, 4584.2, and 4597, Public Resources Code; and EPIC v. California Department of Forestry and Fire Protection and Board of Forestry (1996) 43 Cal. App.4th 1011.

Pursuant to **1 CCR § 20(c)(1)**, no documents are incorporated by reference in these regulations.

The Board had available the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office in Sacramento, California.

Pursuant to **1 CCR § 48**, the notice required by Government Code section 11346.1(a) shall contain the following or substantially similar statement:

"Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6."

Pursuant to **1 CCR §50(a)(5)(A)** and **GOV § 11346.1(a)(2)** the Board provided a five working-day notice. The proposed action was, at a minimum, posted on the Board's website (pursuant to **GOV § 11346.4(a)(6)**), sent to the Board mailing list (pursuant to **GOV § 11346.4(a)**) and widely distributed via email (pursuant to **GOV § 11340.85**) at least five working days prior to being submitted to the Office of Administrative Law.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 11346.5(a)(3)**

INFORMATIVE DIGEST

Pursuant to the Chapter 8 of Part 2, of Division 4 of the Public Resources Code, the Z'berg-Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. the Board is authorized

to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

Pursuant to PRC § 4584 the Board is authorized to exempt a person engaged in specific forest management activities, upon determining that the exemption is consistent with the purposes of Z'berg-Nejedly Forest Practice Act of 1973 (FPA), from all or portions of the FPA.

Additionally, pursuant to PRC § 4551.5, the rules and regulations that the Board is authorized to adopt includes measures for fire prevention and control and for prevention and control of damage by forest insects, pests, and disease.

Pursuant to this statutory authority, the Board amended 14 CCR §§ 1038, 1038.1, 1038.2, and adopted 1038.3, 1038.4, and 1038.5 in accordance with the emergency identified by SB 901 and the provisions of the authorizing statutes.

The effect of the action is to provide exemptions from portions of FPA to allow timber operations which provide a simplified regulatory pathway to allow California's small timberland owners to practice sustainable forest management on their private family ownerships. The action will also restructure existing regulatory exemptions from the FPA to improve their clarity and consistency pursuant SB 901, and standardize the conditional elements (where applicable) of regulatory exemptions pursuant to PRC §§ 4584 and 4584.1.

The primary benefit of the action is: 1) the conservation of public trust resources through fuel hazard reduction, maintenance of wildlife habitat, protection of water resources, protection of archaeological resources, and maintenance of long-term carbon sequestration, and benefit social and economic objectives; and 2) the reduction in risk to life, property and the environment posed by dead and dying trees through streamlining their harvest and removal, therefore enabling landowners to promote forest health and resilience within their forests.

The proposed action does not differ substantially from an existing comparable federal regulation or statute.

The Board performed a search of existing regulations and concluded that the proposed regulation is not inconsistent or incompatible with existing state regulations.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 1346.5(a)(4)**. There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

Pursuant to **GOV § 11346.1(b)(2)**, following is the information required by **GOV § 11346.5(a)(5)**. The Board finds that the proposed regulation does not impose a mandate on local agencies or school districts.

3. Existing provisions 14 CCR § 1038 (g)(3) restricts timber operations pursuant to the subsection to the removal of slash and woody debris developed during timber operations, This requirement is redundant as both “slash” and “woody debris” are specifically defined within existing regulations (14 CCR § 895.1) as resultant from timber operations. This provision was removed, which is necessary to improve the clarity of the regulations and reduce redundancy within the provisions.
4. Existing provision 14 CCR § 1038 (g)(4) required that slash to be removed pursuant to the subsection be delivered as combustion fuel for the production of energy. The policy of the state is, in part, to “...encourage prudent and responsible forest resource management by increasing the pace and scale of fuel reduction”, as identified within SB 901. It is the goal of the statutory revisions of SB 901, including revision to PRC § 4584, to promote this policy. The provision of an exemption to remove slash and woody debris is appropriate for both the collection of combustion fuel, as well as to reduce the overall fuel loading within California’s forests and it is appropriate to make this exemption available for the accomplishment of any production end-goal which provides for this reduction. This amendment is necessary to clarify that the use of this exemption (as restructured) is not restricted to those activities which deliver combustion fuel for the production of energy.
5. The provisions of 14 CCR §§ 1038 (b)(3), (4), (6), (7), (8), and (10) have been restructured and adopted by the board as 14 CCR § 1038.1 (c)(6), (7), (9), (10), (11), and (3), respectively, in substantively equivalent provisions, with the exception of (b)(10) (revised (c)(3)). The discussion of revisions to existing 14 CCR § 1038 (b)(10) in adoption of 14 CCR § 1038.1 (c)(3) can be found within the necessity statement for that subsection, as well as the necessity for revision or adoption or all other provisions related to 14 CCR § 1038.1.

Amend § 1038 (h)

The purpose of this amendment is to eliminate all of subdivision (h), which conditionally prohibited the harvesting of large old trees. This was eliminated due to the adoption of similar conditional provisions within 14 CCR § 1038.1 (c)(15). This elimination is necessary to improve the clarity of these restructured regulations and the applicability of conditions and exceptions related to exemption use. Please see the discussion of amendments to 14 CCR § 1038.1 for additional details.

Amend § 1038 (i)

The purpose of this amendment is to eliminate all of subdivision (i), which authorized and described the Forest Fire Prevention Exemption. This was eliminated to accommodate for the restructuring of the exemptions and the adoption of the Forest Fire Prevention Exemption within 14 CCR § 1038.3. These revisions occurred due to the statutory revisions to the Forest Fire Prevention Exemption within PRC §§ 4584 (k) and 4584.2, which substantially altered the Forest Fire Prevention exemption. The amendment to this subsection is necessary to provide clarity for the restructuring of the exemptions. Please see the discussion of the adoption of 14 CCR § 1038.3 and § 1038.4 for additional details.

Amend § 1038 (j)

The purpose of this amendment is to eliminate all of subdivision (j), which authorized and described the Forest Fire Prevention Exemption Pilot Project. This was eliminated to

accommodate revisions to the Forest Fire Prevention Exemption within PRC § 4584 (k), which substantially altered the Forest Fire Prevention exemption. Previously, the Forest Fire Prevention Exemption Pilot Project had been authorized by PRC § 4584 (j)(11), which has since been substantively eliminated from the statute. Given that the Boards authority for adoption of this exemption had been eliminated, as well as the statutory restructuring of the Forest Fire Prevention Exemption to incorporate portions of the Forest Fire Prevention Exemption Pilot Project, it is appropriate to eliminate the exemption here and allow the regulated public to rely upon the revised Forest Fire Prevention Exemption of 14 CCR §§ 1038.3 and 1038.4 to accomplish similar forest management goals. The amendment to this subsection is necessary to provide clarity that this provision has been eliminated within the restructuring of the exemptions.

Amend § 1038 (k)

The purpose of this amendment is to eliminate all of subdivision (k), which authorized and described conditions related to the harvesting of dead and dying trees, fuelwood, and split products in response to drought related stress. This was eliminated to accommodate for the restructuring of the exemptions and the combination of this exemption with previous 14 CCR § 1038 (d), which authorized harvests on substantially damaged timberland under specified conditions. The combination of these exemptions is suitable and appropriate due to the similarities in operational requirements related to both exemptions, as well as the similarities in appropriate conditional elements of the exemptions. This elimination is necessary to improve the clarity of these restructured regulations and the applicability of conditions and exceptions related to exemption use. Please see the discussion of amendments to 14 CCR §§ 1038 (d) and 1038.1 for additional details.

Amend § 1038 (l)

1. Within the paragraph 14 CCR § 1038 (e)(1), the reference to 14 CCR § 1038.2 (b) is revised to 14 CCR § 1038.1 (a)(2) to accommodate the restructuring and standardization of the Boards regulatory exemptions. The provisions are substantively identical, and the change in reference represents a non-substantive change to maintain consistency within the regulations.
2. Within the paragraph 14 CCR § 1038 (e)(2), the condition that an RPF is required to prepare the notice of exemption and submit it to the Director is removed. This is necessary to maintain clarity within the restructured and standardized exemption. Please note, however, that this provision has been moved to 14 CCR § 1038.1 (c)(1) and remains applicable to this subsection per Table 1 within 14 CCR § 1038.1. Please see the discussion of amendments to § 1038.1 for additional details.
3. Within subparagraph 14 CCR § 1038 (e)(2)(A) the requirement that all information required pursuant to 14 CCR § 1038.2 (a)-(c) has been eliminated to accommodate the standardization and restructuring of the exemptions regulatory structure. This is necessary to provide clarity within the restructured and standardized regulations. Please see the discussion of amendments to 14 CCR §§ 1038.1 and 1038.2 for additional details.
4. The mapping requirements of 14 CCR § 1038 (e)(2)(B) have been eliminated to accommodate the mapping standards adopted by 14 CCR § 1038.2 and applicable to this subsection per Table 1 within 14 CCR § 1038.2. This removal is necessary to provide clarity within these regulations regarding this standardization.

5. The provision of 14 CCR § 1038 (l)(2)(E) which required a Confidential Archaeological Letter and conditional elements and additional elements related to the distribution and disclosure of the letter, has been removed. This removal is necessary to accommodate the restructuring and standardization of the regulations. A standardized requirement that a Confidential Archaeological Letter be provided upon submission of a notice of exemption has been adopted within 14 CCR § 1038.1 (c)(2) which remains applicable to amended 14 CCR § 1038 (e) pursuant to Table 1 within 14 CCR § 1038.1. Please see the discussion of amendments to 14 CCR § 1038.1 for additional details.
6. The slash treatment requirements not related to the configuration of slash within 14 CCR § 1038 (l)(4)(E) have been removed in favor standardized slash treatments adopted within 14 CCR § 1038.1. This removal is necessary to accommodate the restructuring and standardization of the Boards regulatory exemptions.
7. The requirement of 14 CCR § 1038 (l)(4)(E) has been retained within amended 14 CCR § 1038 (e)(4)(E), but has been amended to include the qualification that that configuration must additionally comply with the slash standards found within 14 CCR § 1038.1, as applicable. This is necessary to provide clarification that, though slash must be configured to minimize risk of fire related tree mortality, the configuration must also comply with other extant and applicable slash treatment standards found elsewhere in regulation.
8. The requirements of 14 CCR § 1038 (l)(5) that all timber operations comply with 14 CCR § 1038 (b)(1)-(10) has been removed to accommodate the restructuring and standardization of the regulations. The requirements of 14 CCR § 1038 (b)(1)-(10) have been revised and adopted within 14 CCR § 1038.1 and remain applicable to amended 14 CCR § 1038 (e) pursuant to Table 1 within 14 CCR § 1038.1. Please see the discussion of amendments to 14 CCR § 1038.1 for additional discussion.
9. Within 14 CCR § 1038 (l)(6), the term “exemption” was modified to “notice of exemption” to clarify that a notice of exemption proposing timber operations pursuant to this subsection may not be submitted within the Southern Sub-District of the Coast Forest District or the Southern Forest District.
10. Within 14 CCR § 1038 (l)(6), “timberlands” was removed as it’s use is unnecessary given that the regulatory and statutory definition of timber operations is restricted to operations on timberlands and that timber operations permitted by an exemption pursuant to 14 CCR § 1038 *et seq.* must necessarily occur on timberlands. This was necessary to improve the clarity of the regulations.
11. Within 14 CCR § 1038 (l)(6), the citations to the regulatory locations of the definitions of forest districts has been eliminated, which is necessary to reduce unnecessary citations within the regulatory text and improve clarity and readability of the regulations to assist in interpretation.
12. The expiration date for this subsection found within 14 CCR § 1038 (l)(7) has been eliminated as this was a previous statutory limitation which no longer exists within PRC § 4584 pursuant to the amendments within SB 901. This is necessary to provide clarity that these regulations will no longer expire on January 1, 2024.

Adopt § 1038 (f)

1. The proposed action has amended 14 CCR § 1038 (f) to adopt a new exemption, referred to as the Small Timberland Owner Exemption. This is necessary to implement the

exemption which is authorized by PRC § 4584 (j) and to make clear what the exemption shall be available for.

2. The purpose of amended 14 CCR § 1038 (f)(1) and (f)(1)(A) and (B) are to implement PRC § 4584 (j)(1)(H) and (I), which limits the use of this exemption to forest landowners who own less than 60 acres within a single planning watershed within the coast forest district, or 100 acres within a single planning watershed within the northern or southern forest districts. The adopted regulations specify that the acreage limit applies to timberland which is owned in order to clarify that the limits are not applicable to land which is owned but is not timberland. Additionally, the method by which a planning watershed is identified, CALWATER 2.2, is itself identified to provide clarity in interpretation, implementation, and enforcement of these regulations.
3. 14 CCR § 1038 (f)(2) has been amended to implement various provisions required by the authorizing statute of the Small Timberland Owner Exemption. The requirement that an RPF include a description of the pre-harvest stand structure and a statement of the minimum expected post-harvest stand Stocking upon submission of a notice of exemption pursuant to this section is included here to implement PRC § 4584 (j)(1)(E), of which those requirements are explicit. This is necessary to both implement these requirements within regulation, as well as to provide clarity to the submitter of the requirements of the submitted notice of exemption. Similarly, the requirements that the residual stand consist primarily of healthy and vigorous dominant and codominant trees from the pre-harvest stand, well distributed throughout the Harvest Area is an explicit requirement of PRC § 4584 (j)(1)(D)(i), and is necessary to include here to both implement the authorizing statute and to provide clarity to the regulated public the requirements of the exemption and to make them easily accessible within regulation and to aid in contextual comprehension of a comprehensive regulatory structure. Furthermore, PRC § 4584 (j)(1)(B) explicitly requires that minimum post-harvest stocking be achieved through uneven aged management and its adoption is necessary in order to implement this requirement.
4. The purpose of amended 14 CCR § 1038 (f)(2)(A), (B), (C) are to describe and make clear the residual stocking standards as required by PRC § 4584 (j)(1)(B)(i), (ii), and (iii). This is necessary in order to implement the authorizing statute, of which these standards are explicit requirements.
5. The purpose of the amendments to 14 CCR § 1038 (f)(2)(D) is to identify residual stocking standard requirements for site IV and V lands. Though PRC 4584 is silent on the residual stocking standards required for these lands, existing Board regulations for minimum residual stocking standards for the uneven-age management regeneration method of selection require that a minimum of fifty square feet of basal area be retained on site IV and V lands (14 CCR § 913.2 [933.2, 953.2] (a)(2)(A)3.). Given that the use of a small timberland owner exemption requires the use of uneven aged management, the use of these existing standards is suitable and appropriate here. This is necessary in order to clarify these standards to the regulated public.
6. The purpose of the amendments to 14 CCR § 1038 (f)(3) is to require that the quadratic mean diameter relative to trees larger than eight inches in diameter within the pre-harvest harvest area be increase in the post-harvest and to require that the submitted notice report the expected increase. This is necessary to implement PRC § 4584 (j)(1)(C)(i) and (ii), within which these requirements are explicit, as well as to provide clarity of these requirements to the regulated public.

7. The purpose of the amendments to 14 CCR § 1038 (f)(4) is to impose a diameter limit on trees which are allowed to be harvested pursuant to the subsection. These limits include a restriction on harvesting any tree of genus *Quercus sp.* (certain oak trees) that are greater than 26 inches in diameter (measured outside the bark and at 8 inches above ground level), and a restriction on harvesting any other tree that is greater than 32 inches in diameter (measured outside the bark and 8 inches above ground level). These restrictions are explicit requirements within the authorizing statute of PRC § 4584 (j)(1)(D)(ii) and (iii) and are necessary to implement the statute and to provide clarity regarding these limits.
8. The purpose of the amendments to 14 CCR § 1038 (f)(5) is to require that the six largest trees on a given acre boundaries identified pursuant to this subdivision be retained post-harvest. This is an explicit requirement of the authorizing statute PRC 4584 (j)(1)(D)(iv) and its regulatory adoption is necessary to implement the provision and to provide clarity surrounding this retention requirement.
9. The purpose of the amendments to 14 CCR § 1038 (f)(6) is to require that post-harvest tree species composition remain consistent with pre-harvest tree species composition for exemptions conducted pursuant to this subsection, as well as an exception that that, if the RPF provides justification explaining how any modification of this requirement will benefit forest health and resiliency, and that this justification be submitted with the notice of exemption. This is an explicit requirement of the authorizing statute PRC 4584 (j)(1)(D)(v) and its regulatory adoption is necessary to implement the provision and to provide clarity surrounding when this justification is required and how to provide it.
10. The purpose of the amendments to 14 CCR § 1038 (f)(7) is to require a vertical spacing of at least 8 feet from the base of live crown of dominant and codominant trees and the top of dead surface or ladder fuels beneath them. This is necessary to clarify the standards which are necessary to reduce the potential hazard that excess fuel may represent within forested landscapes. A similar requirement had existed within 14 CCR § 1038 (i)(10)(A)1. , and this standard is suitable and appropriate here due to the similarity in scope of these operations.
11. The purpose of the amendments to 14 CCR § 1038 (f)(8) is to require that any exemption conducted pursuant to this subsection must comply with existing canopy retention requirements of 14 CCR § 1052.4(d)(3)(A). The authorizing statute requires that “a submitted notice of exemption pursuant to this subdivision shall comply with the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.” (PRC 4584 (j)(1)(G)). The referenced regulatory section are those standards which are described and the regulatory adoption here is necessary to implement the provision and to provide clarity surrounding this retention requirement.
12. The amendments to 14 CCR § 1038 (f)(9) state that all trees to be harvested or retained must be marked by an RPF or their supervised designee prior to commencing felling operations.
13. The first sentence of amendments to 14 CCR § 1038 (f)(10) states that the conduction of timber operations pursuant to this subdivision may only occur once over a 10-year period on any given acre, regardless of ownership. This is an explicit requirement of PRC § 4584 (j)(2)(A) and its regulatory adoption is necessary to implement the statute and to provide clarity to the public regarding this restriction on timber operations.
14. The second sentence of amendments to 14 CCR § 1038 (f)(10) states that, during any ten-year period during which timber operations have been conducted once pursuant to this

subsection, no other plan (as defined within the Board's regulations within 14 CCR § 895.1), shall be approved by the Director on the same acres subjected to an exemption pursuant to this subsection if those Plans allow for even-aged silvicultural prescriptions. This is an explicit requirement of the authorizing statute within PRC § 4584 (j)(2)(B) and this regulatory adoption is necessary to implement this statute and to provide clarity regarding this temporal restriction on certain timber operations. Additionally, during this same ten-year period the submission of an exemption pursuant to 14 CCR § 1038.4 which incorporates any acre that is subjected to an exemption pursuant to this subsection is prohibited. This provision's authorizing statute, PRC § 4584 (j)(2)(B) restricts the submission of any exemption pursuant to PRC § 4584 (k) during this period, which the Board has implemented as 14 CR § 1038.4 within its regulations. This restriction is a requirement of the authorizing statute within PRC § 4584 (j)(2)(B) and this regulatory adoption is necessary to implement this statute and to provide clarity regarding this temporal restriction on the submission of certain notices of exemption.

15. The purpose of the amendments to 14 CCR § 1038 (f)(11) is to restrict acceptance of any more than 3 notices of exemption pursuant to this subsection which are submitted by a single timberland owner. This is an explicit requirement of PRC § 4584 (j)(2)(A), and this amendment is necessary in order to implement the statute and to improve clarity of this requirement to the public and small timberland owners.
16. The purpose of amendments to 14 CCR § 1038 (f)(12) is to inform the public that the Small Timberland Owner Exemption will expire on January 24, 2024 and will no longer be available after that date. This is the implementation of PRC § 4584 (j)(4)(A), which states that the statutory authorization for this regulatory exemption will expire five years after the effective date of emergency regulations as adopted by the Board and is inoperative as of that date. The Board has clarified the regulatory date of expiration as January 24, 2024, which will be prior to 5 years from the date of effectiveness and will conform with the authorizing statute. This revision is necessary to make the date of expiration clear to the public.

Amend § 1038 (n)

The amendments to 14 CCR § 1038 (n) are entirely non-substantive and are discussed below within the Non-Substantive Amendments section.

Repeal § 1038.1 Compliance with Act and Rules

The purpose of this repeal is to eliminate the existing conditional requirements for compliance with 14 CCR § 1038 which existed within 14 CCR § 1038.1. This is necessary in order to accommodate and clarify the restructuring and standardization of the Boards regulatory exemptions.

Adopt § 1038.1 Additional Exceptions or Requirements

1. The preamble to adopter 14 CCR § 1038.1 identifies that the subsections which follow this preamble are applicable to notices of exemption or timber operations as identified within those subsections. This is necessary to clarify the applicability of the subsections which follow.
2. The purpose of adopted 14 CCR § 1038.1 (a) is to require that any notice of exemption use pursuant to 14 CCR § 1038 requires the submission of a form to be submitted to the

Director prior to timber operations. The subsection also requires that the Department provide this form to the public and that the form shall contain the information required by the succeeding paragraphs. This is necessary to clarify these requirements to both the public and CAL FIRE and to aid in interpretation, implementation, and enforcement of all regulations pursuant to 14 CCR §§ 1038 and 1038.1.

3. The purpose of adopted paragraphs 14 CCR § 1038.1 (a)(1) through (6) are to provide the information which is required to be submitted on a form, provided by the department, for an exemption pursuant to 14 CCR § 1038. These requirements are necessary to clarify these requirements and to identify to CAL FIRE and the public the information which must be collected/submitted for an exemption and to aid in the application and enforcement of the regulations. It should be noted that many of these requirements had previously existed within 14 CCR § 1038.2 (i.e. the type of exemption (§ 1038.2 (a)), Names address and telephone numbers of the Timber Owners, timberland owners, and timber operator (§ 1038.2 (b)), and legal description of the location of timber operations (§ 1038.2 (e))) and have been added to the adopted § 1038.1 (a) largely as non-substantive restructuring. The adoption of 14 CCR § 1038.1 (a)(1) through (6) is also necessary to accommodate the Boards restructuring and standardization of their exemptions.
4. The purpose of the adopted subsection 14 CCR § 1038.1 (b) is to identify and clarify additional requirements related to all exemptions submitted pursuant to 14 CCR § 1038. These requirements are contained within the paragraphs following this subsection.
5. The purpose of the adopted provision 14 CCR § 1038.1 (b)(1) is to require that that timber operations conducted pursuant to 14 CCR § 1038 within the Lake Tahoe region must have a valid Tahoe Basin Tree Removal permit when required, or be conducted under a valid Tahoe Regional Planning Agency memorandum of understanding when required. This provision is an implementation of PRC § 4584.1 (f), which the Board found suitable and appropriate for application to all exemption types pursuant to 14 CCR § 1038, given that a similar requirement had previously existed within 14 CCR § 1038 (2), prior to the restructuring and standardization of the regulations, and was previously applicable to all exemptions pursuant to 14 CCR § 1038. This adoption is necessary to clarify this requirements to both the CAL FIRE and the regulated public and to aid in their application and enforcement.
6. The purpose of the adopted provision of 14 CCR § 1038.1 (b)(2) to require that CAL FIRE distribute copies of a submitted notice of exemption to certain agencies for any exemption submitted pursuant to 14 CCR § 1038, as well as the timeline for such a distribution. This provision is an implementation of PRC § 4584.1 (h), which the Board found suitable and appropriate for application to all exemption types pursuant to 14 CCR § 1038 to allow for adequate disclosure of the exemption activities to agencies which may have authority related to certain forest management activities associated with timber operations conducted pursuant to 14 CCR § 1038. This adoption is necessary to clarify this requirements to both the CAL FIRE and the regulated public and to aid in their application and enforcement.
7. The purpose of the adopted provision of 14 CCR § 1038.1 (b)(3) is to restrict helicopter yarding for any exemption submitted pursuant to 14 CCR § 1038. This provision is an implementation of PRC § 4584.1 (m), which the Board found suitable and appropriate for application to all exemption types pursuant to 14 CCR § 1038, given potential noise impacts associated with helicopter use. This adoption is necessary to clarify this restriction.

8. The purpose of adopted 14 CCR § 1038.1 (c) is to identify numerous exceptions to or requirements of exemptions pursuant to 14 CCR § 1038 and to identify that the Table adopted within the provision details the applicability of these exceptions and requirements. This is necessary in order to clarify the applicability of the adopted table and to accommodate the standardization and restructuring of the regulations.
9. The purpose of the adoption of Table 1 within 14 CCR § 1038.1 (c) is identify the applicability of various exceptions and requirements, as identified within the sub-provisions of 14 CCR § 1038.1 (c), to the exemptions as described by 14 CCR § 1038. This is necessary to clarify the applicability of these provisions, to aid in enforcement and application of the regulations, and to provide for the restructuring and standardization of the regulations. Additional discussion of necessity for each row of the table can be found within the necessity statements for the sub-provisions of 14 CCR § 1038.1 (c). It should be noted that, with the exception of 14 CCR § 1038.1 (c)(3), none of these provisions are applicable to the harvesting of Christmas trees, due to the *de minimus* nature timber operations surrounding those harvest activities.
10. The purpose of the adoption of 14 CCR § 1038.1 (c)(1) is to create of provision which requires that an RPF prepare, sign, and submit a notice of exemption for exemptions pursuant to 14 CCR § 1038 (c)(6), (d), (e), and (f), per Table 1 within 14 CCR § 1038.1 (c). This is partially necessary to implement PRC § 4584 (j)(A), which requires this provision of Board regulations adopted pursuant to PRC § 4584 (j), which have been adopted by the Board within 14 CCR § 1038 (f), to implement PRC § 4584 (m)(1)(A), which requires this provision of Board regulations adopted pursuant to PRC § 4584 (m), which have been adopted by the Board within 14 CCR § 1038 (c)(6), and to implement PRC § 4584 (l)(1), which requires that an RPF prepare the notice of exemption for Board regulations adopted pursuant to PRC § 4584 (l), which have been adopted by the Board within 14 CCR § 1038 (e), though the adoption of 14 CCR § 1038.1 (c)(1) also requires that the RPF sign and submit the notice, which the Board has determined as necessary in order to demonstrate preparation and to aid in enforcement of this provision. The adoption of the first row of Table 1 (following the headers), clarifies that this requirement applies to notice of exemptions for exemptions pursuant to 14 CCR § 1038 (c)(6), (d), (e), and (f). As previously discussed, the applicability to provisions (c)(6), (e) and (f) are necessary to implement the authorizing statute for those exemptions. The applicability of this provision to 14 CCR § 1038 (d) was determined appropriate and necessary by the Board as a similar requirement existed previously within 14 CCR § 1038 (k)(7), and the Board has incorporated the previous 14 CCR § 1038 (k) into 14 CCR § 1038 (d), and the retention of this provision is appropriate and suitable here. The additional requirement that the RPF sign and submit the notice is necessary in order to demonstrate the RPF involvement within the preparation of the notice.
11. The purpose of the adoption of 14 CCR § 1038.1 (c)(2) is to create of provision which requires that a Confidential Archaeological Letter, as per 14 CCR § 929.1 [949.1, 969.1] be provided to the Director and the RPF must also provide the letter to Native American groups as identified by Board regulation. This is necessary to clarify this requirement to both CAL FIRE and to the public in order to aid in application and enforcement. The adoption of the second row of Table 1 (following the headers) clarifies that this requirement applies to notice of exemptions for exemptions pursuant to 14 CCR § 1038 (e) and (f). This requirement in 14 CCR § 1038 € is both suitable and appropriate as a

similar requirement had previously existed within 14 CCR § 1038 (e)(formerly 14 CCR § 1038 (l)(2)(E)) and its retention here is necessary to accommodate the restructuring and standardization of the regulations. The Board has also determined that the adoption of 14 CCR § 1038 (f) is likely to provide a mechanism for forest management to small timberland owners who may not have previously subjected their property to timber operations, and who may not have conducted archaeological research or outreach similar to that as required by 14 CCR § 929.1 [949.1, 969.1], and the application of the provision of 14 CCR § 1038.1 (c)(2) to those exemptions is suitable to accomplish necessary research and outreach to avoid potential disturbance to cultural resources.

12. The purpose of the adoption of 14 CCR § 1038.1 (c)(3) is to create of provision which prohibits timber operations on archaeological or historical sites (as defined by Board regulations), except under specific conditions designed to avoid disturbance to those sites. This is necessary to clarify this restriction as well as to clarify those conditions which allow for an exception to this restriction. The adoption of the third row of Table 1 (following the header), clarifies that this requirement applies to all exemptions pursuant to 14 CCR § 1038. Similar requirements exist within 14 CCR § 1104.1 (a)(2)(l) for a similar exemption to the FPA provided by the Board, and its application here is suitable and appropriate given the nature and requirements of timber operations conducted under these exemption types. The adoption of these regulations is also necessary to accommodate the restructuring and standardization of the Boards exemptions.
13. The purpose of the adoption of 14 CCR § 1038.1 (c)(4)(A) is to create of provision which requires that slash be treated to a maximum post-harvest depth of thirty inches above the ground, and it is required to be treated within one year from the date of the Directors receipt of the notice of exemption, except in the case of burning, which must be completed in 2 years from this date, though the material must be piled for burning within 1 year. This is necessary to clarify the standards which are necessary to reduce the potential hazard that excess fuel may represent within forested landscapes. The existing definition of Lopping (within the Northern and Coast Districts) as contained within 14 CCR § 895.1 requires that material be spread so that no part of it remains more than 30 inches above the ground, and this standard is suitable and appropriate here for all slash treatment, which includes lopping, pursuant to 14 CCR § 1038 (d) given the scope of timber operations pursuant to that exemption. As per the fourth row (following the headers) of Table 1, this requirement is only applicable to exemptions pursuant to 14 CCR § 1038 (d). These adoptions are necessary to clarify the standards which are applicable to 14 CCR § 1038 (d) and are necessary to accommodate the restructuring and standardization of the Boards exemptions. Furthermore, this adoption is the Boards implementation of PRC § 4584.1 (c), which provides fuels treatment timing requirements, which the Board felt suitable and appropriate for treatment of slash pursuant to 14 CCR § 1038 (d)
14. The purpose of the adoption of 14 CCR § 1038.1 (c)(4)(B) is to create of provision which requires that slash be treated to a maximum post-harvest depth of eighteen inches above the ground across at least 80 percent of the Harvest Area, and it is required to be treated within one year from the date of the Directors receipt of the notice of exemption, except in the case of burning, which must be completed in 2 years from this date, though the material must be piled for burning within 1 year. This is necessary to clarify the standards which are necessary to reduce the potential hazard that excess fuel may represent within forested landscapes. A similar requirement had existed within 14 CCR § 1038 (j)(10)(C)

and (D), and this standard is suitable and appropriate here due to the similarity in scope of these operations. As per the fifth row (following the headers) of Table 1, this requirement is only applicable to exemptions pursuant to 14 CCR § 1038 (e) and (f). These adoptions are necessary to clarify the standards which are applicable to 14 CCR § 1038 (e) and (f) and are necessary to implement PRC § 4584 (j)(1)(g), which requires that the Board adopt regulations for the treatment of various fuels that could promote the spread of wildfire. to accommodate the restructuring and standardization of the Boards exemptions.

15. The purpose of amendments to 14 CCR § 1038.1 (c)(5) is to create of provision which restricts tractor or heavy equipment operations on slopes greater than 50 percent, and to additional restrict those operations as related to the construction of new tractor roads on slopes greater than 40 percent. Similar previous requirements had existed within 14 CCR § 1038 (b)(1) and (2) which were applicable to all exemptions pursuant to 14 CCR § 1038, and their adoption here is suitable and appropriate to maintain these operational limitations. This amendment is necessary in order to clarify these operational limitations to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
16. The purpose of amendments to 14 CCR § 1038.1 (c)(6) is to create of provision which requires that any timber operations within any special treatment area (as defined within 14 CCR § 895.1) comply with the rules and regulations associated with those special treatment areas. A similar requirement had previously existed within 14 CCR § 1038 (b)(3) which was applicable to all exemptions pursuant to 14 CCR § 1038, and its adoption here is suitable and appropriate to maintain these operational limitations. This amendment is necessary in order to clarify this operational limitation to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
17. The purpose of amendments to 14 CCR § 1038.1 (c)(7) is to create of provision which restricts tractor or heavy equipment operations on any known unstable areas, as defined pursuant to 14 CCR § 895.1. A similar requirement had previously existed within 14 CCR § 1038 (b)(4) which was applicable to all exemptions pursuant to 14 CCR § 1038, and its adoption here is suitable and appropriate to maintain these operational limitations. The previous provision of 14 CCR § 1038 (b)(4) had also included a restriction on known slides, however the Boards definition of Unstable Areas is inclusive of slide areas, and so the use of slide areas was removed in order to promote clarity within the regulations. This amendment is necessary in order to clarify this operational limitation to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt

regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.

18. The purpose of amendments to 14 CCR § 1038.1 (c)(8) is to create of provision which prohibits any new road construction or reconstruction, as defined within 14 CCR § 895.1. A similar requirement had previously existed within 14 CCR § 1038 (b)(5) which was applicable to all exemptions pursuant to 14 CCR § 1038, and its adoption here is suitable and appropriate to maintain these operational limitations. This amendment is necessary in order to clarify this operational limitation to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
19. The purpose of amendments to 14 CCR § 1038.1 (c)(9) is to create of provision which prohibits heavy equipment operations within the standard width of a watercourse and lake protection zone (WLPZ), as defined within 14 CCR § 916.4 [936.4, 956.4] (b) except for the maintenance of roads and drainage facilities or structures. A similar requirement had previously existed within 14 CCR § 1038 (b)(6) which was applicable to all exemptions pursuant to 14 CCR § 1038, and its adoption here is suitable and appropriate to maintain these operational limitations. This amendment is necessary in order to clarify this operational limitation to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
20. The purpose of amendments to 14 CCR § 1038.1 (c)(10) is to create of provision which prohibits the disturbance, threatening, or damaging, of known sites of rare, threatened, or endangered plants or animals. A similar requirement had previously existed within 14 CCR § 1038 (b)(7) which was applicable to all exemptions pursuant to 14 CCR § 1038, and its adoption here is suitable and appropriate to maintain these operational limitations. This amendment is necessary in order to clarify this operational limitation to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.

21. The purpose of amendments to 14 CCR § 1038.1 (c)(11) is to create of provision which prohibits timber operations within the buffer zone of a sensitive species, as defined in 14 CCR § 895.1. A similar requirement had previously existed within 14 CCR § 1038 (b)(8) which was applicable to all exemptions pursuant to 14 CCR § 1038, and its adoption here is suitable and appropriate to maintain these operational limitations. This amendment is necessary in order to clarify this operational limitation to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
22. The purpose of amendments to 14 CCR § 1038.1 (c)(12) is to create of provision which prohibits timber harvesting within the standard width of a WLPZ, as defined in 14 CCR § 916.4 [936.4, 956.4] (b), except for sanitation-salvage harvesting, as defined in 14 CCR § 913.3 [933.3, 953.3], or for the removal of dead or dying trees where consistent with 14 CCR § 916.4 [936.4, 956.4] (b). If sanitation-salvage harvesting is to be used, then immediately after completion of operations, the area shall meet the Stocking Standards of 14 CCR § 912.7 [932.7, 952.7] (b)(2). Additionally, the provision requires that trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations. A similar requirement had previously existed within 14 CCR § 1038 (b)(9) which was applicable to all exemptions pursuant to 14 CCR § 1038, and its adoption here is suitable and appropriate to maintain these operational limitations. This amendment is necessary in order to clarify this operational limitation to the public, as well as to aid in the restructuring and standardization of the Board's exemptions. Additionally, this provision was informed by PRC § 4584.1 (e), which allows the Board to adopt regulations requiring that timber operations comply with the requirements of previously extant 14 CCR § 1038 (b)(1) through (10). As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
23. The purpose of amendments to 14 CCR § 1038.1 (c)(13) is to create a provision which requires that timber operations pursuant to an exemption may not commence for 5 working days from the date of the Director's receipt of the notice of exemption, unless under specified conditions. This requirement is necessary in order to ensure efficient and timely inspection of exemption related timber operations and to ensure regulatory compliance and maintain environmental quality. Similar reporting requirements had existed within 14 CCR § 1038 (e) and (k)(6) and are suitable and appropriate for all applicable exemption types to improve the interpretation and enforcement of the regulations. As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
24. The purpose of amendments to 14 CCR § 1038.1 (c)(13)(A) is to create a provision which prohibits timber operations without a copy of the Director's notice of acceptance of the

notice of exemption at the operating site, unless specified conditions occur. This is necessary to ensure operational compliance with the regulations, to aid in the enforcement of the regulations, and to clarify this requirement to the public. Similar requirements exist within 14 CCR § 1038 (c)(5)(B) and they are appropriate to apply to all applicable exemptions to provide clarity and improve the standardization and restructuring of the Boards exemptions. As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.

25. The purpose of amendments to 14 CCR § 1038.1 (c)(14) is to create a provision which requires that a Timber Operator, LTO, RPF, or person responsible for the submittal of a notice of exemption notify the Department prior to the actual commencement date of Timber Operations. This notification requirement is necessary in order to ensure efficient and timely inspection of exemption related timber operations and to ensure regulatory compliance and maintain environmental quality. Similar reporting requirements exist within 14 CCR §§ 1035.4, 1090.13, 1092.15, and 1094.14 and this standard of notification is appropriate and suitable for notification of commencement of operations for exemptions. As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), (e), and (f). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations.
26. The purpose of amendments to 14 CCR § 1038.1 (c)(15) is to prohibit the harvesting of specified large and old trees, or decadent and deformed trees with value to wildlife, unless under specified conditions. These amendments are necessary in order to clarify both that these trees should generally be retained, and to clarify the conditions under which these trees may be harvested. Similar retention and harvesting requirements exist within 14 CCR § 1104.1 (i) and within the previous 14 CCR § 1038 (h), which was applicable to all exemption types. Additionally, this provision was informed by PRC 4584.1 (l), which the Board determined to be suitable and appropriate for implementation here. Their use here is suitable and appropriate for all applicable exemption types as well. As per the sixth row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c), (d), and (e). which is necessary to clarify the applicability of these regulations and again, to promote the standardization of the regulations. It should be noted that, due to the diameter limits already extant within 14 CCR § 1038 (f), large trees are already excluded from harvest for exemptions pursuant to that subdivision.

Repeal § 1038.2 Exemption Form

The purpose of this repeal is to eliminate all information required to be submitted on a form for a notice of exemption pursuant to 14 CCR § 1038. The information that is required to be submitted on the form is now found within 14 CCR § 1038.1. Please see the above statements on those provisions for additional discussion. This repeal is necessary in order to accommodate and clarify the restructuring and standardization of the Boards regulatory exemptions.

Adopt § 1038.2 Mapping Standards for Notices of Exemption

1. The purpose of the adopted revision to 14 CCR § 1038.2 is to require a map to be submitted with a notice of exemption pursuant to 14 CCR § 1038, as well as to provide

additional standards related to the map. The requirement to submit a 7 ½ minute USGS quadrangle map or its equivalent was an existing requirement of 14 CCR § 1038.2 (d), and the Board has retained this requirement, with the clarification that the quadrangle map be produced by the USGS, if the quadrangle map is the submitters chosen format. Additionally, the requirement that a larger scale map be submitted for exemptions pursuant to 14 CCR § 1038 (c) was an existing requirement of 14 CCR § 1038.2 (e)(5) and is retained here. The amendment also provides that additional maps are also allowable for submission if they are able to improve map clarity and their standards and conditions are additionally specified within this amendment. Furthermore, the use of color coding is prohibited, a legend is required to be submitted on a map, and, if more than one yarding system is used, the yarding systems are to be specified and mapped. Similar standards exist within 14 CCR § 1034 (x), and are suitable here to provide an adequate level of mapping disclosure. These amendments are necessary in order to clarify the requirements for maps which are submitted for exemptions and to provide flexibility to the submitter in the preparation of the maps. These amendments are also necessary in order to accommodate the standardization and restructuring of the Boards exemption regulations.

2. The purpose of the adoption of Table 1 within 14 CCR § 1038.2 is to identify the applicability of mapping requirements, as identified within the subsections of 14 CCR § 1038.2, to the exemptions as described by 14 CCR § 1038. This is necessary to clarify the applicability of these provisions, to aid in enforcement and application of the regulations, and to provide for the restructuring and standardization of the regulations. Additional discussion of necessity for each row of the table can be found within the necessity statements for the subsections of 14 CCR § 1038.2.
3. The purpose of the adoption of 14 CCR § 1038.2 (a) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption include the boundaries of the harvest area, as defined by 14 CCR § 895.1. As per the first row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (a) and (c). The exemptions pursuant to 14 CCR § 1038 (a) and (c) are limited in scope and do not generally affect appurtenant roads (as defined by 14 CCR § 895.1), therefore only the harvest area, not the logging area, is requested to be mapped of these exemption types. These amendments are necessary to clarify this mapping standard and applicability to these regulations, to provide disclosure of the location of the harvest area for these exemptions, and to accommodate the restructuring and standardization of the regulations.
4. The purpose of the adoption of 14 CCR § 1038.2 (b) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption include the boundaries of the logging area, as defined by 14 CCR § 895.1. As per the second row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c)(6), (d), (e), and (f). This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(1), which requires mapping of the logging area. This standard is suitable and appropriate to disclose the locations of timber operations and to disclose the appurtenant roads which may be affected by those operations. These provisions are necessary to

clarify the mapping standard which is required, as well as to provide disclosure to the Department to aid in enforcement of the regulations.

5. The purpose of the adoption of 14 CCR § 1038.2 (c) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption include the location of all roads to be used for, or potentially impacted by, timber operations conducted pursuant to those applicable exemptions. A similar requirement exists within 14 CCR § 1034 (x)(4) and it is suitable and appropriate here to provide adequate disclosure of road use to the Department for enforcement of the regulations. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(4). As per the second row (following the headers) of Table 1, this requirement is applicable to exemptions pursuant to 14 CCR § 1038 (b), (c)(6), (d), (e), and (f). These amendments are necessary to clarify this mapping standard and applicability to these regulations, to provide disclosure related to the location of the exemptions, and to accommodate the restructuring and standardization of the regulations.
6. The purpose of the adoption of 14 CCR § 1038.2 (d) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption include the classification of all roads as permanent, seasonal, or temporary. A similar requirement exists within 14 CCR § 1034 (x)(4)(A) and is appropriate and suitable here to provide disclosure of road classification to the department for enforcement of the regulations. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(4). As per the third row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (c)(6) through (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. These adoptions are necessary clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.
7. The purpose of the adoption of 14 CCR § 1038.2 (e) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify roads and landings located in a watercourse, a lake, a WLPZ, or meadows and Wet areas (defined by 14 CCR § 895.1) other than at road watercourse crossings. A similar requirement exists within 14 CCR § 1034 (x)(4)(B) and is appropriate and suitable here to provide disclosure road locations in potentially sensitive areas to the department for enforcement of the regulations and to aid in environmental protection. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(4). As per the third row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (c)(6) through (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.
8. The purpose of the adoption of 14 CCR § 1038.2 (f) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify the location of water drafting sites. A similar requirement exists within 14 CCR § 1034 (x)(4)(C)

and is appropriate and suitable here to provide disclosure of drafting sites to the department for enforcement of the regulations and to allow for inspection of these potentially environmentally sensitive locations. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(4). As per the third row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (c)(6) through (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.

9. The purpose of the adoption of 14 CCR § 1038.2 (g) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify public roads within one-quarter mile of the harvest area. A similar requirement exists within 14 CCR § 1034 (x)(4)(D) and is appropriate and suitable here to provide disclosure of drafting sites to the department for enforcement of the regulations. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(4). As per the fourth row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (c)(6), (e), and (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. Exemptions pursuant to 14 CCR § 1038 (d) have been excluded from this requirement due to the lack of concentration of timber operations related to the provision, which is unlikely to affect public roads. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.
10. The purpose of the adoption of 14 CCR § 1038.2 (h) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify the location of portions of the harvest area with an Extreme Erosion Hazard Rating. A similar requirement exists within 14 CCR § 1034 (x)(8) and is appropriate and suitable here to provide disclosure of these sites to the department for enforcement of the regulations and to promote environmental protection. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(8). As per the fourth row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (c)(6), (e), and (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.
11. The purpose of the adoption of 14 CCR § 1038.2 (i) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify the location of all watercourses and lakes with specific classifications, per Board rules. A similar requirement exists within 14 CCR § 1034 (x)(9) and is suitable and appropriate here to provide disclosure of these potentially environmentally sensitive areas to promote environmental protection and improve enforcement of the regulations. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that

notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(9). As per the fifth row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (b) through (f). This is appropriate due to the sensitivity of these areas and their ability to be affected by timber operations of most exemption types. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.

12. The purpose of the adoption of 14 CCR § 1038.2 (j) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify the location of known unstable areas. A similar requirement exists within 14 CCR § 1034 (x)(10) and is appropriate and suitable here to provide disclosure of these sites to the department for enforcement of the regulations and to promote environmental protection. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(10). As per the fourth row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (c)(6), (e), and (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.
13. The purpose of the adoption of 14 CCR § 1038.2 (k) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify the location special treatment areas, pursuant to 14 CCR § 895.1. A similar requirement exists within 14 CCR § 1034 (x)(10) and is appropriate and suitable here to provide disclosure of these sites to the department for enforcement of the regulations and to promote environmental protection. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(10). As per the second row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (b), (c)(6), (d), (e), and (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.
14. The purpose of the adoption of 14 CCR § 1038.2 (k) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify the location of special treatment areas, pursuant to 14 CCR § 895.1. A similar requirement exists within 14 CCR § 1034 (x)(8) and is appropriate and suitable here to provide disclosure of these sites to the department for enforcement of the regulations and to promote environmental protection. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(8). As per the fourth row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (c)(6), (e), and (f). This is appropriate due to the similar scope and effects of timber operations pursuant to these exemption types. These adoptions are necessary to

clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.

15. The purpose of the adoption of 14 CCR § 1038.2 (l) is to create a provision which requires that a map prepared and submitted for an applicable notice of exemption identify the location of boundaries of timber-site classes, down to a 20 acre minimum unit, or as specified elsewhere in the regulations. A similar requirement exists within 14 CCR § 1034 (x)(12) and is appropriate and suitable here to provide disclosure of these sites to the department for enforcement of the regulations and to promote environmental protection. This provision was informed by PRC § 4584.1 (a), which allows the Board to adopt regulations requiring that notices of exemption which are prepared and submitted to the Director include a map that complies 14 CCR § 1034 (x)(12). As per the sixth row (following the header) of Table 1, this exemption is applicable to 14 CCR § 1038 (f). This is appropriate due to the requirements that stocking standards be complied with within exemptions pursuant to 14 CCR § 1038 (f), and that stocking levels are dependent upon site class. This disclosure is necessary to allow for adequate enforcement of the regulations. These adoptions are necessary to clarify this mapping standard, to clarify the applicability of the standard to the public, and to accommodate the restructuring and standardization of the regulations.

Adopt 14 CCR § 1038.3 Forest Fire Prevention Exemption

1. The purpose of the adoption of 14 CCR § 1038.3, generally, is to implement PRC §§ 4584 (k) and 4584.2 through the creation of a regulatory exemption from the plan preparation and submission requirements (PRC § 4581) and from the completion report and stocking report requirements (PRC §§ 4585 and 4587) of the Forest Practice Act for persons who are engaged in the cutting or removal of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials to reduce fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns. This adoption is necessary to implement this authorizing statute to provide the specified exemption for these activities.

§ 1038.3 (a)

2. The purpose of the adoption of 14 CCR § 1038.3 (a) is to require that any exemption conducted pursuant to this section comply with 14 CCR § 1038.1 (c)(5), (6), (7), and (9) through (12), inclusive. This adoption is necessary to implement PRC § 4584.2 (e), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) require that “Timber operations shall comply with the requirements of paragraphs (1) to (4), inclusive, and (6) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations.” Due to the standardization and restructuring of the regulations, the provisions of 14 CCR § 1038 (b)(1)-(4) and (6)(10) no longer exist within that regulatory framework. These regulations have been adopted elsewhere in 14 CCR § 1038.1 (c)(5), (6), (7), and (9) through (12), which are substantively identical to the existing 14 CCR § 1038 (b)(1)-(4) and (6)(10). This adoption is necessary to clarify the new location of these requirements within regulation and to clarify their applicability to this subsection.

§ 1038.3 (b)

3. The purpose of the adoption of 14 CCR § 1038.3 (b) is to implement the statutory requirements of PRC § 4584 (k) (9), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) require that “All timber operations conducted pursuant to this

subdivision shall only 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." The Board has further clarified this statutory requirement through the inclusion of the online address where the map may be located. This adoption is necessary to both implement the statutory provision, as well as to clarify the location at which the map may be found.

§ 1038.3 (c)

4. The purpose of the adoption of 14 CCR § 1038.3 (c) is to limit the Harvest Area for an individual exemption conducted pursuant to this subsection to a maximum of 300 acres. This is necessary to implement the statutory requirements of PRC § 4584 (k)(2), which requires, in part, that "The board may authorize an exemption pursuant to paragraph (1) only if the tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand, and the tree harvesting area will not exceed 300 acres." This adoption is necessary to implement the exemption pursuant to PRC § 4584 (k), as well as to clarify that this operational limitation exists.

§ 1038.3 (d)

5. The purpose of the adoption of 14 CCR § 1038.3 (d) is to clarify various fuels treatments, which includes the treatment of understory vegetation. The adoption of 14 CCR § 1038 (d) and the subsections contained within is necessary to implement PRC § 4584 (k)(5)(A), which requires, in part, that the Board adopt regulations for the treatment of understory vegetation. The adoption of the following subsections is necessary to clarify the treatment standards, and to describe specific conditions. Please see the necessity statement for 14 CCR § 1038.3 (i) for additional discussion of the implementation of other portions of this statutory provision.
6. The purpose of the adoption of 14 CCR § 1038.3 (d)(2) is to require that slash and woody debris be treated to achieve a maximum post-harvest depth of 18 inches from the ground, unless within 150 from a structure as specified. This adoption is necessary to implement PRC § 4584.2 (d), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) comply with these standards. The adoption is also necessary to clarify this fuel treatment standard to the public.
7. The purpose of the adoption of 14 CCR § 1038.3 (d)(2) is to require that all surface fuels which could promote the spread of wildfire and which are located within one-hundred-fifty (150) feet of a structure as described, must be chipped, burned, or removed from the location within 45 days from the start of timber operations. This adoption is necessary to implement PRC § 4584.2 (d), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) comply with these standards. The adoption is also necessary to clarify the level of fuel treatment, as well as the timing requirement.
8. The purpose of the adoption of 14 CCR § 1038.3 (d)(3) is to require that all fuel treatments as described within this subsection must be complete within 1 year from the date the Director receives the notice, except for burning which is provided 2 years from this date as described. This adoption is necessary to implement PRC § 4584.2 (c), which requires that the fuel treatment that adopted by the Board pursuant to the subsection comply with this standard. This adoption is necessary to clarify the timing of fuels treatments as well.
9. The purpose of the adoption of 14 CCR § 1038.3 (d)(4) is to make clear that the fuel treatment requirements of 14 CCR § 1038.3 (d) do not supersede the requirements of PRC § 4291. This adoption is necessary to clarify that these standard do not exempt landowners from these requirements when operating pursuant to 14 CCR § 1038.3.

§ 1038.3 (e)

10. The purpose of the adoption of 14 CCR § 1038.3 (e) is to allow for the construction or reconstruction of temporary roads on slopes of no more than 30 percent under certain specified conditions. This adoption is necessary to implement PRC § 4584 (k)(7), which provides that, within Board regulations adopted pursuant to PRC § 4584 (k), “the construction or reconstruction of temporary roads on slopes of 30 percent or less shall be allowed if all of the following conditions are met...” This adoption is necessary to clarify that construction or reconstruction of temporary roads is conditionally permitted, and to clarify that those activities must not occur on slopes greater than 30 percent.
11. The purpose of the adoptions of 14 CCR § 1038.3 (e)(1) through (4) is to provide conditions which must be met in order to permit the construction or reconstruction of temporary roads within an exemption pursuant to 14 CCR § 1038.3. These adoptions are necessary in order to implement PRC § 4584 (k)(7)(A) through (F), within which these requirements are explicit for regulations adopted pursuant to PRC § 4584 (k). These adoptions are also necessary to clarify the operational and timing requirements of these provisions.
12. The purpose of the adoption of 14 CCR § 1038.3 (e)(5) is to require that, as a condition of required for the permitting of temporary road construction or reconstruction, temporary road construction or reconstruction be limited to no more than two miles of road per ownership within a single planning watershed within any five-year period. This adoption is necessary to implement PRC § 4584 (k)(7)(I)(i), which requires that any regulations adopted by the Board pursuant to PRC § 4584 (k)(7) require that “Temporary road construction or reconstruction, shall be limited to no more than two miles of road per ownership in a planning watershed per any five-year period.” The Board has clarified this provision through defining of the source of identification of planning watersheds as CALWATER 2.2.
13. The purpose of the adoptions of 14 CCR § 1038.3 (e)(5)(A) through (F) are to place conditions upon the construction temporary roads. These conditions are the implementation of PRC § 4584 (k)(7)(I)(ii) through (viii), within which the adopted provisions are explicit conditions which require compliance from any Board regulations adopted pursuant to PRC § 4584 (k). These adoptions are necessary to describe additional conditions, limitations, and restrictions, which require compliance in order to permit the construction or reconstruction of temporary roads.

§ 1038.3 (f)

14. The purpose of the adoption of 14 CCR § 1038.3 (f) is to require the RPF who is responsible for the submission of the notice of exemption pursuant to 14 CCR § 1038.3 to designate various road and operational features on the landscape prior to the submission of a notice of exemption. This adoption is the implementation of PRC § 4584 (k)(6), which contains this explicit requirement and is necessary as a requisite for any Board regulations adopted pursuant to PRC § 4584 (k). This adoption is also necessary to clarify those features which must be designated and the time by which that designation must occur.

§ 1038.3 (g)

15. The purpose of adoption of 14 CCR § 1038.3 (g) is to require that the quadratic mean diameter of trees greater than eight inches in diameter at breast height within the Harvest area shall be increased within the post-harvest stand, and to require that the expected increase be reported within the submitted notice of exemption. This adoption is the

implementation of PRC § 4584 (k)(2), which includes, in part, the requirement that tree harvesting pursuant to an exemption adopted pursuant to PRC § 4584 (k) increase the quadratic mean diameter of the stand, only considering those trees greater than 8 inches DBH as a prerequisite for the Boards adoption of a regulatory exemption. Additionally, PRC § 4584 (k)(4)(A) requires this reporting of the expected increase in QMD as a conditional requirement of Board adoption of regulations pursuant to PRC § 4584 (k). Their adoption here is necessary to implement these provisions and to clarify their requirements within regulation.

§ 1038.3 (h)

16. The purpose of the adoption of 14 CCR § 1038.3 (h) is to restrict the removal of trees to those less than 30 inches in stump diameter, measured at eight inches above ground level, except within a constructed or reconstructed road prism. This adoption is necessary as the implementation of PRC § 4584 (k)(8), which requires compliance in order to provide for Board adoption of regulations pursuant to PRC § 4584 (k). This adoption is necessary to implement this statute and clarify this standard.

§1038.3 (i)

17. The purpose of the adoption of 14 CCR § 1038.3 (i) is to require a marking or sample marking of trees to be harvested or trees to be retained, by an RPF prior to the commencement of feeling operations, and to identify conditions and requirements for any sample marking. This adoption is necessary as the implementation of PRC § 4584 (k)(4)(D), within which this requirement is explicit and is required of any Board adoption of regulations pursuant to 14 CCR § 4584 (k). This adoption also necessary to clarify this requirement within the regulations.

§ 1038.3 (j)

18. The purpose of the adoption of 14 CCR § 1038.3 (j) is to require minimum standards relative to the trees per acre which must be retained within specific site classes if the preharvest crown canopy of dominant and codominant trees is occupied by trees less than 14 inches DBH. This adoption is necessary as the implementation of PRC § 4584 (k)(4)(C), within which this requirement is explicit and is required of any Board adoption of regulations pursuant to 14 CCR § 4584 (k). This adoption also necessary to clarify this requirement within the regulations.

§ 1038.3 (k)

19. The purpose of the adoption of 14 CCR § 1038.3 (k) and the paragraphs (1) through (3) which follow are to implement the statutory provisions of PRC § 4584 (k)(5)(D), which requires that the standards required by the paragraphs of PRC § 4584 (k)(5) be achieved on approximately 80 percent of the treated area. The Board has chosen to implement this “80%” requirement as written by the legislature for the implementation of post-harvest canopy closure regulations (PRC § 4584 (k)(5)(A), for clearance to live crown requirements (PRC § 4584 (k)(5)(C), and for limitations on retention standards for trees over 3 inches (PRC § 4584 (k)(5)(B), but it has chosen to implement a more stringent standard regarding the treatment of understory vegetation standards (PRC § 4584 (k)(5)(A)). The authorizing statute requires that the Boards adopted regulations comply with the requirements of PRC § 4584 (k)(5)(D), which requires that fuel treatment be conducted on a somewhat ambiguous “approximately” 80% of the treated area. The Board has interpreted this standard to translate as a minimum requirement, specifically related to the treatment of understory vegetation. Given that the statutory intent of the authorized

exemption is to provide timber operations which reduce the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, it is illogical to conclude that the legislature intended that 20% of the vegetation within a harvest area remain untreated. The Board's interpretation that this "approximately 80%" represents a minimum threshold by which the conditions within PRC § 4584 (k)(5) must be achieved, and that to conclude otherwise would not be within the intent of the authorizing statute. For additional discussion on the interpretation of PRC § 4584 (k)(5)(A) related to the treatment of understory vegetation, please see the necessity statements for 14 CCR § 1038.3 (d).

20. The purpose of amendments to 14 CCR § 1038.3 (k)(1) is to require that minimum post treatment canopy closure comply with the standard of 14 CCR § 1052.4 (d)(3)(A) for exemptions pursuant to 14 CCR § 1038.3. This adoption is necessary as the implementation of PRC § 4584 (k)(5)(A), which requires that an exemption pursuant to PRC § 4584 comply with the canopy closure regulations adopted by the Board of June 10, 2004, and as those regulations may be amended. The requirements of 14 CCR § 1052.4 (d)(3)(A) are those referenced standard and their reference here is necessary to clarify the canopy closure requirements and to implement the authorizing statute.
21. The purpose of amendments to 14 CCR § 1038.3 (k)(2) is to restrict quantity of trees per acre which are over 3 inches in DBH to no more than 200. This adoption is necessary as the implementation of PRC § 4584 (k)(5)(B), within which this requirement is explicit and is required of any Board adoption of regulations pursuant to 14 CCR § 4584 (k). This adoption also necessary to clarify this requirement within the regulations.
22. The purpose of the adoption of 14 CCR § 1038.3 (k)(3) is to require a minimum of 8 feet of vertical clearance between the top of dead surface or ladder fuels to the base of the live crown of the post harvest dominant and codominant trees. This adoption is necessary as the implementation of PRC § 4584 (k)(5)(B), within which this requirement is explicit and is required of any Board adoption of regulations pursuant to 14 CCR § 4584 (k). This adoption also necessary to clarify this requirement within the regulations.
23. The purpose of the adoption of 14 CCR § 1038.3 (l) is to prohibit the use of helicopter yarding within exemptions pursuant to 14 CCR § 1038.3. This adoption is necessary to implement PRC § 4584.2 (m), which contains this prohibition explicitly as a requirement of any Board regulations adopted pursuant to PRC § 4584 (k). This adoption is necessary to clarify this prohibition and to implement this statute.
24. The purpose of the adoption of 14 CCR § 1038.3 (k) is to require that an RPF comply with 14 CCR § 1035.2 relating to interaction between the LTO and the RPF. This section outlines requirements and timelines for RPF and LTO responsibilities and disclosures. The requirements of 14 CCR § 1038.3 are somewhat complex and may lead to issues or conflict between RPFs and LTOs and this requirement for compliance with 14 CCR § 1035.2 is necessary to provide some structure and required disclosure to avoid those conflicts. This adoption is additionally the implementation of PRC § 4584 (k)(7)(G). This adoption is necessary to clarify this requirement to both the RPF and the LTO.
25. The purpose of the adoption of 14 CCR § 1038.3 (n) is to require that all timber operations within the Lake Tahoe region have appropriate permits from the Tahoe Regional Planning Agency, when applicable. This adoption is necessary as implementation of PRC § 4584.2 (f), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) comply with these standards. This adoption is necessary to clarify these requirements as well.

26. The purpose of the adoption of 14 CCR § 1038.3 (o) is to require the provision of a Confidential Archaeological Letter to the Director and Native Americans (as defined in 14 CCR § 895.1) upon submission of a notice of exemption. This adoption is necessary as implementation of PRC § 4584.2 (b), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) comply with these standards. This adoption is necessary to clarify these requirements as well.
27. The purpose of the adoption of 14 CCR § 1038.3 (p) is to prohibit timber operations on any site that satisfies the definition of a significant archaeological or historical site, as well as to provide information on where that additional information may be available. This adoption is necessary as the implementation of PRC § 4584.2 (e), which includes a requirement that timber operations comply with 14 CCR § 1038 (b)(10). Due to the restructuring and standardization of the regulations, (b)(10) no longer exists within its previous location, and so has been adopted here in a substantively identical provision. This adoption is necessary as an explicit requirement for Board regulations adopted pursuant to PRC § 4584 (k), as well as to clarify the restriction.
28. The purpose of the adoption of 14 CCR § 1038.3 (q) is to require that, for any exemption which has been accepted by the director and will use pesticides or herbicides on the harvest area within 1 calendar year of the date of acceptance, the timberland owner must notify the appropriate regional water quality control board within ten days prior to the application. This adoption is necessary as implementation of PRC § 4584 (k)(10), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) comply with these standards. This adoption is necessary to clarify this requirement.
29. The purpose of the adoption of 14 CCR § 1038 (r) is to require the CAL FIRE to conduct an onsite inspection to determine compliance upon completion of timber operations pursuant to 14 CCR § 1038.3. This adoption is necessary as implementation of PRC § 4584 (k)(11), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) comply with these standards. This adoption is necessary to clarify this requirement.
30. The purpose of the adoption of 14 CCR § 1038 (s) is to require that the notice of exemption be prepared by an RPF, as well as a requirement that an RPF be retained to oversee operational requirements and to provide for necessary mitigation to avoid potential impacts. These requirements are the partial implementation of PRC § 4584 (k)(7)(G), which requires that any Board regulations adopted pursuant to PRC § 4584 (k) comply with such a requirement.
31. The purpose of the adoptions of 14 CCR § 1038.3 (s)(1), and (s)(1)(A) through (E) is to require that a form for a notice of exemption pursuant to 14 CCR § 1038.3 be provided by the department, be submitted prior to the commencement of timber operations, and contain several informational and disclosure items. These adoptions are necessary to provide an adequate disclosure of applicant information in order to provide for enforcement of the regulations by the Department. Additionally, the requirement that the form include the name, address, and telephone number, and license number of the RPF preparing and submitting the notice of exemption is the implementation of PRC § 4584 (k)(7)(G), and is necessary to both provide disclosure to the Department for enforcement purposes, as well as to implement this required statutory provision.
32. The purpose of the adoption of 14 CCR § 1038.3 (s)(2)(A) and (B) is to require a submitted notice of exemption, pursuant to 14 CCR § 1038.3, to include a description of the preharvest stand structure, and an estimate of the pre and post-harvest QMD, and a

certification by the RPF that, in their professional judgment, post-harvest slash treatment and stand conditions will lead to more moderate fire behavior. This adoption is necessary to both implement PRC § 4584 (k)(4)(A), as well as to require that an applicant certify that the intent of the exemption will be achieved through the proposed timber operations. This is necessary to clarify these requirements to the applicants.

33. The purpose of the adoption of 14 CCR § 1038.3 (s)(3)(A) is to require that the RPF, upon submittal of the notice of exemption, provide certification that the level of residual stocking shall be consistent with maximum sustained production of high quality timber products. Additionally, conditions related to the residual stand are contained within this provision as well. The adoption of this provision is, in part, necessary to implement PRC § 4584 (k)(4)(B) and (k)(4)(B)(i), which requires these basic stocking standards. Additional requirements related to the retention of trees to meet basal area stocking standards are necessary to clarify the intent of this exemption to promote a large, healthy and vigorous trees which are resilient to fire. The adoption of this provision is necessary to clarify this requirement.
34. The purpose of the adoption of 14 CCR § 1038.3 (s)(3)(B) is to require that the RPF, upon submittal of the notice of exemption pursuant to 14 CCR § 1038.3, affirm that any construction or reconstruction of temporary roads is necessary to provide access to the harvest area where no other feasible alternative exists, and to disclose the total number and cumulative length of temporary roads being constructed or reconstructed. This adoption is necessary to implement PRC § 4584 (k)(7)(H), within which this requirement is explicit for any Board regulations adopted pursuant to PRC § 4584 (k). This adoption is additionally clear to clarify this requirement within regulations.
35. The purpose of the adoption of 14 CCR § 1038.3 (s)(3)(C) is to require the provision of selection criteria, as well as to provide the RPF instruction for the development of this criteria, as well as the fuel reduction prescriptions. This adoption is necessary, in part, to implement PRC § 4584.2 (g), which requires this selection criteria within Board regulations for the notice of exemption. Additionally, the instructions for selection criteria was a previous provision of 14 CCR § 1038 (i)(6), and is appropriate and suitable for inclusion here due to the similarities in scope and scale between the previous Forest Fire Prevention Exemption and the newly adopted Forest Fire Prevention Exemption. This adoption is necessary to provide information related to optimal selection criteria to accomplish the intent of the statutory authority for the exemption.
36. The purpose of the adoption of 14 CCR § 1038.3 (s)(4) is to provide a timeline for the available commencement of timber operations of 10 working days from the date of the Director's receipt of the notice of exemption, except under specified conditions. This adoption is necessary to implement PRC § 4584.2 (k), which contains the same substantive requirement, with additional clarification relative to the timelines by which notifications must occur. This clarification is necessary to avoid any confusion regarding these timelines.
37. The purpose of the adoption of 14 CCR § 1038.3 (s)(5) is to require the distribution of the notice exemption, by the Department, to certain specified agencies upon receipt of a filed notice of exemption. This adoption is necessary as an implementation of PRC § 4584.2 (h), which requires this distribution to the agencies. The regulations provide additional clarification that the notice of exemption shall be made available for public inspection, in order to reinforce the disclosure required by the document.

38. The purpose of the adoption of 14 CCR § 1038.3 (t) requires the RPF responsible for submittal of the notice of exemption to notify the Department, and other specified agencies, of the actual date of commencement of timber operations, and provides additional detail related to these notification requirements. This adoption is necessary in order to implement PRC § 4584.2 (j), which requires that “Within a 15-day period, the registered professional forester responsible for the submittal of the notice of exemption shall notify the department, the Department of Fish and Game, the appropriate regional water quality control board, and the California Geologic Survey of the actual date of commencement of timber operations.” The description of the “15-day period” is ambiguous and the Board has clarified the timing requirements for notification as simply “before beginning timber operations”, with additional timing requirements if a notification is made by mail. This is necessary in order to clarify the time by which this notification must occur in order to eliminate any confusion within the regulation. Additionally, the adoption clarifies that contact information for the appropriate agencies will be provided by the Department on the form that is required for the exemption. This is further necessary to clarify how this notification will occur.
39. The purpose of amendments to 14 CCR § 1038.3 (u) is to inform the public that the Forest Fire Prevention Exemption will expire on January 24, 2024 and will no longer be available after that date. This is the implementation of PRC § 4584 (k)(12), which states that the statutory authorization for this regulatory exemption will expire five years after the effective date of emergency regulations as adopted by the Board and is inoperative as of that date. The Board has clarified the regulatory date of expiration as January 24, 2024, which will be prior to 5 years from the date of effectiveness and will conform with the authorizing statute. This revision is necessary to make the date of expiration clear to the public.

Adopt § 1038.4 Mapping Standards for the Forest Fire Prevention Exemption

Mapping standards for the Forest Fire Prevention Exemption were informed by statutory mandates contained in SB 901. Within the framework of statutory revisions to the Forest Fire Prevention Exemption, the legislature amended PRC § 4584 (k), which contains numerous statutory provisions which are required for any potential Board adoption of a regulation pursuant to that section, and adopted PRC § 4584.2, which outlines provisions which must be adopted by the Board within any regulatory adoption of an exemption pursuant to PRC § 4584 (k).

1. The implementation of § 1038.4 was made to closely match the existing requirement which the statute references. The statute requires the following specific provisions which were previously contained within the existing text of 14 CCR § 1034 (x). The Board felt comfortable in closely aligning this text with existing text, albeit without the scale requirement of 14 CCR § 1034 (x), due to the limited sizes of these exemptions, versus the size of THPs which are regulated by this existing section. The Board also felt it prudent to continue to restrict the use of color maps, and did not change this requirement that currently exists in 14 CCR § 1034 (x). There was concern from the Department that reproducing these maps in black and white copies would essentially make a color-coded map useless, and would increase the cost to the Department if color coded maps were indeed allowed for this proposed section.

2. The Board has implemented § 1038.4 (a) pursuant to the statutory mandate of PRC § 4584. This adoption is currently unchanged from existing text found in § 1034 (x)(1). The Board finds that these standard provide clear direction to the plan submitter on what shall be included in the map.
3. § 1038.4 (b) has been adopted in regulation pursuant to the statutory mandate to provide clarity to the plan submitter that all yarding systems shall be mapped and included if different. This text is unchanged from current language found within § 1034(x)(3).
4. This provision of § 1038.4 (c) was required by statute to be included on the proposed map. § 1038.4 (c) (1) – (5) was included for clear and concise requirements for mapping of roads in this exemption. This language is the exact text found within existing regulatory language of 14 CCR § 1034 (x) (4) (a) – (e).
5. The adoption of § 1038.4 (d) which required the mapping of constructed or reconstructed of logging roads and landings, was necessary to satisfy the statutory requirement of SB 901. Although, the Board felt it necessary to included additional enumerated mapping standards for the adequate protection of forest resources where these exemptions will occur. It is the intent of the Board that this additional mapping standards will allow timber management review agencies additional information on where the exemption will take place and if there are any areas that may result in potential impacts on the landscape. Only § 1038.4 (d) (4) in the current text is required by law, and the Board added in § 1038.4 (d) (1) – (3). These standards, without edits by Board staff, was taken from § 1034 (x) (A), (B), (D) and (E) from the current FPRs.
6. § 1038.4 (e) was included to satisfy the legislature’s mandate with SB 901. This text was mandated within statute to satisfy the existing text of § 1034 (x) (7), but the Board went beyond this standard to include mapping of all tractor road Watercourse crossings of classified Watercourses. This was in-lieu of providing relief for the mapping of temporary Class III Watercourse crossings without flowing water that is currently provided in the existing regulation. The Board felt for brevity and clarity’s sake that this would be a worthwhile effort.
7. The next three subsections, § 1038.4 (f), (g), (h), were directly taken from existing regulatory language of 14 CCR § 1034 (x) (8), (9), and (10) without change due to being required by law. The Board included these sections to satisfy direction from the legislature, but made one small change to § 1038.4 (h) for even greater brevity. California Geologic Survey (CGS) staff was counseled at a public workshop held by the Board, and questioned on whether removing the term “slides” would be better understood and would provide clearer direction. CGS provided their input, and it was decided by the Board to include this slight amendment to this proposed text. Just declaring the mapping of “Unstable Areas” was agreed upon by the Board to reduce confusion, as it is defined in 14 CCR § 895.1, and references “Slides” within its definition. This amendment was made for brevity’s sake.

8. The next three subsections, § 1038.4 (i), (j), (k), were included in these mapping standards as the Board felt that it meant the intent of this exemption, and also that it sufficed the legal direction from the legislature on this rule section. These subsections were taken from existing language found within § 1034 (x) (11), (12) and (14), with again a single small amendment made to subsection (k). To make this subsection succinct, the Board edited the existing regulatory language this subsection was to be copied from, and made this standard just “Location ~~Coastal Commission of any~~ Special Treatment Areas or any other special treatment area”, versus the awkward existing language. Special Treatment Area is already defined within 14 CCR § 895.1, and it was unnecessary to include further Special Treatment Areas.

Non-Substantive Amendments

1. Capitalized additional defined terms including the following:
 - Plan
 - Stocking
 - Stocking Standards
 - Dying Trees
 - Diseased Trees
 - Slash
 - Silvicultural Methods
 - Seed Tree
 - Timber Operations
 - Woody Debris
 - Substantially Damaged Timberland
 - Planning Watershed
2. Removed capitalization where defined terms do not exist, including the following:
 - Notice of Exemption
3. Included written and Arabic numbers where they exist.
4. Utilized Abbreviations which are identified within 14 CCR § 895 where applicable, including:
 - QMD
 - LTO
 - DBH
5. Re-numbered provisions where necessary:
 - 14 CCR § 1038 (c)(5)(A) has been re-numbered to 14 CCR § 1038 (c)(5) to account for the removal of 14 CCR §§ 1038 (c)(5) and (c)(5)(B).
 - 14 CCR § 1038 (c)(6)(E) and (F) have been re-numbered to (D) and (E) (respectively) to account for the removal of 14 CCR § 1038 (c)(6)(D).
 - 14 CCR § 1038 (d)(4) was re-numbered to 14 CCR § 1038 (d)(1) to account for the removal of 14 CCR §§ 1038 (d)(1) through (3).
 - 14 CCR § 1038 (l) has been re-numbered to 14 CCR § 1038 (e) to account for the removal of existing 14 CCR §§ 1038 (e) through (k).
 - 14 CCR § 1038 (l)(2)(C) and (D) have been renumbered to 14 CCR § 1038 (e)(2)(B) and (C) to account for the removal of 14 CCR § 1038 (e) through (k) and (l)(2)(B)
 - 14 CCR § 1038 (l)(6) has been renumbered to 14 CCR § 1038 (e)(5) to account for the removal of 14 CCR § 1038 (e) through (k) and (l)(5)
 - a. The existing post-fire recovery exemption of 14 CCR § 1038 (n) has been moved to a new section 14 CCR § 1038.5

- b. Within the post-fire recover exemption, the reference to 14 CCR §§ 1038 (b)(1) through (1) has been revised to 14 CCR §§ 1038.1 (c)(5) through (12) and 1038.3 (p) order to reflect the new locations of those substantively identical provisions.
6. Within the post-fire recovery exemption (now 14 CCR § 1038.5), the entirety of pre-existing 1038.1 has been added to the introduction of the exemption to account for the loss of those substantive provisions within the restructuring and standardization of the exemptions.
7. Corrected grammar and punctuation throughout.