

1 **Potential Revisions to 14 CCR § 1038 (Exemptions)**

2 **Pursuant to SB 901**

3 **January 23, 2019**

4 **Title 14 California Code of Regulations**

5 **Division 1.5, Chapter 4**

6 **Subchapter 7, Article 2**

7 **Amend §§ 1038, 1038.2, & 1038.2;**

8 **Adopt §§ 1038.3, 1038.4, & 1038.5**

9 **§ 1038. Exemption.**

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

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

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

3  
4 (a) Harvesting Christmas trees.

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

8 ~~(1) No tractor or heavy equipment operations on slopes greater than 50 percent.~~

9 ~~(2) No construction of new tractor roads on slopes greater than 40 percent.~~

10 ~~(3) Timber operations within any Special Treatment Area, as defined in 14 CCR 895.1, shall~~  
11 ~~comply with the rules associated with that Special Treatment Area.~~

12 ~~(4) No tractor or heavy equipment operations on known slides or unstable areas.~~

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

14 ~~(6) No heavy equipment operations within the standard width of a watercourse or lake protection~~  
15 ~~zone, as defined in 14 CCR 916.4 [936.4, 956.4] (b), except for maintenance of roads and~~  
16 ~~drainage facilities or structures.~~

17 ~~(7) No known sites of rare, threatened or endangered plants or animals will be disturbed,~~  
18 ~~threatened or damaged.~~

19 ~~(8) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR~~  
20 ~~895.1.~~

21 ~~(9) No timber harvesting within the standard width of a watercourse or lake protection zone, as~~  
22 ~~defined in 14 CCR 916.4 [936.4, 956.4] (b), except sanitation salvage harvesting, as defined in~~  
23 ~~14 CCR 913.3 [933.3, 953.3], where immediately after completion of operations, the area shall~~  
24 ~~meet the stocking standards of 14 CCR 912.7 [932.7, 952.7] (b)(2), or, except the removal of~~  
25

1 ~~dead or dying trees where consistent with 14 CCR 916.4 [936.4, 956.4] (b). Trees to be~~  
2 ~~harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.~~

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

7 (c) The cutting or removal of trees in compliance with PRC §§ 4290 and 4291<sub>1</sub>, which eliminates the  
8 vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of  
9 reducing flammable materials and maintaining a fuelbreak to reduce fire spread, duration and intensity.

10 The requirements of this subsection shall not supersede the requirements of PRC § 4291.

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

14 (2) The following ~~Ssilvicultural M~~methods may not be used: clearcutting, ~~Sseed T~~tree removal  
15 step, shelterwood removal step.

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

22 (4) In addition to the ~~slash surface fuel~~ treatment described in 14 CCR § 1038(c)(3), the ~~areas of~~  
23 ~~timber operations~~ Harvest Area must meet the vegetation treatment standards in PRC §  
24 4584(i)(1) to (2)(A) illustrated in Technical Rule Addendum No.4 within one (1) year from the  
25

1 receipt of issuance of notice of acceptance. This paragraph does not apply to 14 CCR § 1038  
2 (c)(6).

3 ~~(5) In addition to the limitations listed in 14 CCR § 1038(b)(1)-(10),~~

4 ~~(A5) Timber operations~~ Operations conducted under this subsection shall conform to the  
5 applicable city or county general plans, city or county implementing ordinances, and city or  
6 county zoning ordinances within which the notice of exemption is located. The LTO timber  
7 ~~operator~~, timberland owner, or if applicable the RPF, shall certify that the city or county has been  
8 contacted and the notice of exemption conforms with all city or county regulatory requirements.

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

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

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

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

21 (C) All ~~logging slash~~ Slash ~~created by the timber operations~~ shall be lopped, removed,  
22 chipped, piled and burned, or otherwise treated to achieve a maximum post-harvest  
23 depth of eighteen (18) inches above the ground within forty-five (45) days from the start  
24 of ~~timber operations~~ Timber Operations except for the burning of piles, which shall be  
25 accomplished not later than April 1 of the year following their creation, or for piles

1 created on or after September 1, not later than April 1 of the second year following  
2 creation. Treatment of surface fuels by burning shall be exempt from the one-year time  
3 limitations on Timber Operations described under 14 CCR § 1038-4.

4 ~~(D) The Notice of Exemption, pursuant to 14 CCR § 1038.2, shall be prepared, signed,~~  
5 ~~and submitted to the Department by a RPF.~~

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

10 ~~(F) 14 CCR § 1038(c)(6) shall expire on January 1, 2019 2022.~~

11 ~~(G) The Department shall evaluate the effects of the exemption allowed under 14 CCR §~~  
12 ~~1038(c)(6) including frequency and state-wide distribution of use, acres treated,~~  
13 ~~compliance, professional judgment regarding post-treatment stand conditions observed~~  
14 ~~relative to moderating fire behavior, and actual performance in the event of a wildfire.~~  
15 The Department shall, annually, report its findings, based on this evaluation, to the  
16 Board.

17 ~~(d) The limit of 10 percent of the volume per acre in subsection (b) above does not apply when~~  
18 ~~harvesting~~ Harvesting dead trees, Dying Trees or Diseased Trees, fuelwood, or split products in  
19 response to drought related stress or dead trees which are unmerchantable as sawlog-size timber from  
20 that are located upon substantially damaged timberlands Substantially Damaged Timberland, as  
21 defined in 14 CCR 895.1, and when the following conditions are met:

22 (1) ~~Timber operations shall comply with the limits established in 14 CCR 1038(b)(1)-(10).~~

23 (2) ~~The landowner shall notify the Director of the completion of timber operations within thirty~~

24 ~~(30) days of their cessation.~~

1 ~~(3) At least one inspection conducted by the Director shall be made after completion of~~  
2 ~~operations (Section 4604 PRC).~~

3 (41) The RPF certifies that the notice of exemption is submitted upon Substantially Damaged  
4 Timberland timberland is substantially damaged when necessary.

5 (2) Trees eligible for removal when harvesting in response to drought related stress shall meet  
6 one (1) or more of the following conditions:

7 (A) Trees that are dead, or,

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

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

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

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

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

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

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

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

15 (B) Other low impact tree removal methods may be used in SEZs and WLPZs if  
16 approved by the Lahontan RWQCB prior to submittal of the exemption notice to the  
17 Department. Certification of approval by the Lahontan RWQCB and TRPA shall be  
18 provided with the exemption notice to the Department. Low impact tree removal  
19 methods means the use of techniques for vegetation management, including tree cutting  
20 or removal, designed to minimize impacts to the soils and vegetation. Such techniques  
21 shall minimize disruption of the soil surface (soil detachment), soil compaction, and  
22 damage to vegetation. Depending on the specific site conditions (e.g. soil type, soil  
23 conditions, slopes) and the method of operation, the use of low ground pressure logging  
24 equipment, including but not limited to, certain harvesters and forwarders, may qualify.  
25

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

4 ~~(3) No tractor or heavy equipment (ground-based) operations on slopes greater than 30% except~~  
5 ~~during over-snow operations that result in no soil disturbance.~~

6 ~~(4) No heavy equipment operations during the winter period, except for over-snow operations~~  
7 ~~that result in no soil disturbance, or use of low-impact tree removal methods approved pursuant~~  
8 ~~to (f)(2) above.~~

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

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

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

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

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

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

23 ~~(11) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR §~~  
24 ~~895.1.~~

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

5 (13) The landowner shall allow access to the property for inspections by staff of the Lahontan  
6 RWQCB and TRPA.

7 (14) Timber operations within any Special Treatment Area, as defined in 14 CCR § 895.1, shall  
8 comply with the rules associated with Special Treatment Areas.

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

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

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

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

20 (1) the tree is not critical for the maintenance of a Late Successional Stand and

21 (2) an RPF attaches to the exemption an explanation and justification for the removal based on  
22 the RPF's finding that one or more of the criteria or conditions listed under subsection (A), (B), or  
23 (C) are met. The requirements of (h)(2) need not be met if an approved management document,  
24 including but not limited to a HCP, SYP, NTMP, WFMP, or PTEIR, addresses large old tree  
25

1 retention for the area in which the large old tree(s) are proposed for removal and the removal is  
2 in compliance with the retention standards of that document.

3 (A) ~~The tree(s) is a hazard to safety or property. The hazard shall be identified in writing  
4 by an RPF or professionally certified arborist;~~

5 (B) ~~The removal of the tree(s) is necessary for the construction of a building as  
6 approved by the appropriate county/city permitting process and as shown on the  
7 county/city approved site plan which shall be attached to the Notice of Exemption;~~

8 (C) ~~The tree is dead or is likely to die within one year of the date of proposed removal,  
9 as determined by an RPF or professionally certified arborist.~~

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

14 (1) ~~The logging area does not exceed 300 acres in size.~~

15 (2) ~~The tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of  
16 the stand.~~

17 (3) ~~The Notice of Exemption, described in 14 CCR § 1038.2, is prepared, signed and submitted  
18 by an RPF to the Director.~~

19 (4) ~~The RPF preparing the Notice of Exemption shall, upon submission of the Notice of  
20 Exemption, provide a map of the area of timber operations that complies with 14 CCR §  
21 1034(x)(1), (3), (4), (7), (8), (9), (10), (11), (12) and (14). This map shall be submitted in place of  
22 the map required by 14 CCR § 1038.2(d).~~

23 (5) ~~The RPF shall, upon submission of the Notice of Exemption, include a description of the  
24 preharvest stand structure and a statement of the postharvest stand stocking levels. The level of  
25 residual stocking shall be consistent with maximum sustained production of high quality timber~~

1 products. The residual stand shall consist primarily of healthy and vigorous dominant and  
2 codominant trees from the preharvest stand. Trees retained to meet the basal area stocking  
3 standards shall be selected from the largest trees available on the project area prior to harvest.

4 In no case shall stocking be reduced below the following standards:

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

7 [Coast]:

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

12 [Northern, Southern]:

- 13 1. On Site I mixed conifer lands at least 125 sq. ft. per acre of basal area shall be left, and on  
14 Site I land where greater than 50% of the basal area is pine, at least 100 sq. ft. per acre of basal  
15 area shall be left.
- 16 2. On Site II mixed conifer lands at least 100 sq. ft. per acre of basal area shall be left, and on  
17 Site II lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal  
18 area shall be left.
- 19 3. On Site III mixed conifer lands at least 75 sq. ft. per acre of basal area shall be left, and on  
20 Site III lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of  
21 basal area shall be left.
- 22 4. On Site IV and V mixed conifer lands, at least 50 sq. ft. per acre of basal area shall be left,  
23 and on Site IV and V lands where greater than 50% of the basal area is pine at least 50 sq. ft.  
24 per acre of basal area shall be left.

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

4 (6) The RPF shall, upon submission of the Notice of Exemption, provide the selection criteria for  
5 the trees to be removed or the trees to be retained. In the development of these criteria, and the  
6 fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible,  
7 including, but not limited to, ground level cover necessary for the long-term management of local  
8 wildlife populations. The selection criteria shall specify how the trees to be removed, or how the  
9 trees to be retained, will be designated. All trees to be harvested or all trees to be retained shall  
10 be marked or sample marked by, or under the supervision of, an RPF prior to felling operations.  
11 Sample marking shall be limited to homogeneous forest stand conditions typical of plantations.  
12 When trees are sample marked, the designation prescription for unmarked areas shall be in  
13 writing and the sample mark area shall include at least 10% of the harvest area to a maximum of  
14 20 acres per stand type which is representative of the range of conditions present in the area.

15 (7) The RPF shall, upon submission of the Notice of Exemption, provide a Confidential  
16 Archaeological Letter, as defined in 14 CCR § 895.1, which contains all the information required  
17 for plans and Emergency Notices with the exception that the information required in 14 CCR §  
18 929.1(c)(3) [949.1(c)(3), 969.1(c)(3)] shall not be required. The Director shall submit a complete  
19 copy of the Confidential Archaeological Letter, and two copies of any required archaeological or  
20 historical site records, to the appropriate Information Center of the California Historical Resource  
21 Information System, within thirty (30) days from the date of Notice of Exemption submittal to the  
22 Director. Before submitting the Notice of Exemption to the Director, the RPF shall send a copy of  
23 the Notice of Exemption to Native Americans defined in 14 CCR § 895.1.

24 (8) Only trees less than 18 inches outside bark stump diameter, measured at eight inches above  
25 ground level, may be removed except as follows:

1           ~~(A) Within 500 feet of an Approved and Legally Permitted Structure that complies with~~  
2           ~~the California Building Code, or in an area prioritized as a shaded fuel break in a~~  
3           ~~community wildfire protection plan approved by a public fire agency, if the goal of fuel~~  
4           ~~reduction cannot be achieved by removing trees less than 18 inches outside bark stump~~  
5           ~~diameter, trees less than 24 inches outside bark stump diameter may be removed if that~~  
6           ~~removal complies with this section.~~

7           ~~(9) Post-harvest stand conditions shall not violate the following canopy closure requirements:~~

8           ~~(A) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
9           ~~40 percent for east side pine forest types;~~

10          ~~(B) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
11          ~~50 percent for coastal redwood and Douglas-fir forest types within 1/4 mile from~~  
12          ~~approved and legally permitted structures that comply with the California Building Code~~  
13          ~~(legal structure). Such legal structures shall be within or adjacent to a community listed~~  
14          ~~in the "California Fire Alliance list of Communities at Risk" (copyright date 2003 on file in~~  
15          ~~the official rulemaking file and incorporated by reference) and have densities greater~~  
16          ~~than 1 structure per 20 acres;~~

17          ~~(C) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
18          ~~50 percent for coastal redwood and Douglas-fir forest types within 500 feet of a legal~~  
19          ~~structures outside the area referenced in 14 CCR § 1038(i)(9)(B);~~

20          ~~(D) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
21          ~~60 percent for coastal redwood and Douglas-fir forest types outside areas referenced in~~  
22          ~~14 CCR § 1038 (i)(9)(B) and (C);~~

23          ~~(E) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
24          ~~50 percent for mixed conifer and all other forest types.~~

25          ~~(10)~~

1 (A) ~~This subsection applies to areas described in 14 CCR § 1038(i)(8)(A). Surface and~~  
2 ~~ladder fuels in the harvest area, including logging slash and debris, brush, small trees,~~  
3 ~~and deadwood, that could promote the spread of wildfire, shall be treated to achieve~~  
4 ~~standards for vertical spacing between fuels, horizontal spacing between fuels,~~  
5 ~~maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as~~  
6 ~~follows:~~

7 1. ~~Ladder and surface fuels, excluding residual stand dominant and codominant~~  
8 ~~trees, shall be spaced to achieve a vertical clearance distance of eight feet or~~  
9 ~~three times the height of the post harvest fuels, whichever is the greater~~  
10 ~~distance, measured from the base of the live crown of the post harvest dominant~~  
11 ~~and codominant trees to the top of the ladder or surface fuels, whichever is~~  
12 ~~taller.~~

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

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

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

1 ~~(B) This subsection applies to all other areas outside those described in 14 CCR §~~  
2 ~~1038(i)(8)(A).~~

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

5 2. ~~Vertical spacing shall be achieved by treating dead fuels, excluding dead~~  
6 ~~branches on the trees retained for stocking, to a minimum clearance distance of~~  
7 ~~8 feet measured from the base of the live crown of the post-harvest dominant~~  
8 ~~and codominant trees to the top of the dead surface or ladder fuels, whichever~~  
9 ~~is taller.~~

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

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

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

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

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

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

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

5 (1) The logging area does not exceed 300 acres in size.

6 (2) The tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the  
7 stand.

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

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

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

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

23 1. On Site I lands at least 125 sq.ft. per acre of basal area shall be left.

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

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



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

2 (B) Where the preharvest dominant and codominant crown canopy is occupied primarily  
3 by trees greater than 14 in. dbh in the Northern and Southern Districts:

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

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

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

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

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

19 The retained trees shall be the largest trees available prior to harvest.

20 (6) The RPF shall, upon submission of the Notice of Exemption, provide the selection criteria for  
21 the trees to be removed or the trees to be retained. In the development of these criteria, and the  
22 fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible,  
23 including, but not limited to, ground level cover necessary for the long-term management of local  
24 wildlife populations. The selection criteria shall specify how the trees to be removed, or how the  
25 trees to be retained, will be designated. All trees to be harvested or all trees to be retained shall

1 be marked or sample marked by, or under the supervision of, an RPF prior to felling operations.  
2 Sample marking shall be limited to homogeneous forest stand conditions typical of plantations.  
3 When trees are sample marked, the designated prescription for unmarked areas shall be in  
4 writing and the sample mark area shall include at least 10% of the harvest area to a maximum of  
5 20 acres per stand type which is representative of the range of conditions present in the area.

6 (7) The RPF shall, upon submission of the Notice of Exemption, provide a Confidential  
7 Archaeological Letter which contains all the information required for plans and Emergency  
8 Notices with the exception that the information required in 14 CCR § 929.1(c)(3) [949.1(c)(3),  
9 969.1(c)(3)] shall not be required. The Director shall submit a complete copy of the Confidential  
10 Archaeological Letter, and two copies of any required archaeological or historical site records, to  
11 the appropriate Information Center of the California Historical Resource Information System,  
12 within thirty (30) days from the date of Notice of Exemption submittal to the Director. Before  
13 submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of  
14 Exemption to Native Americans defined in 14 CCR § 895.1.

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

17 (9) Post harvest stand conditions shall not violate the following canopy closure requirements:

18 (A) Minimum post treatment canopy closure of dominant and codominant trees shall be  
19 40 percent for east side pine forest types;

20 (B) Minimum post treatment canopy closure of dominant and codominant trees shall be  
21 50 percent for coastal redwood and Douglas fir forest types within 1/4 mile from  
22 approved and legally permitted structures that comply with the California Building Code  
23 (legal structure). Such legal structures shall be within or adjacent to a community listed  
24 in the "California Fire Alliance List of Communities at Risk" (copyright date 2003) and  
25 have densities greater than 1 structure per 20 acres;

1 ~~(C) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
2 ~~50 percent for coastal redwood and Douglas fir forest types within 500 feet of legal~~  
3 ~~structures outside the area referenced in 14 CCR § 1038(j)(9)(B);~~

4 ~~(D) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
5 ~~60 percent for coastal redwood and Douglas fir forest types outside areas referenced in~~  
6 ~~14 CCR § 1038(j)(9)(B) and (C);~~

7 ~~(E) Minimum post treatment canopy closure of dominant and codominant trees shall be~~  
8 ~~50 percent for mixed conifer and all other forest types.~~

9  
10 (10)

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

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

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

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

21 ~~(E) The requirements of this subsection shall not supersede the requirements of PRC §~~  
22 ~~4291.~~

23 ~~(11) Treatments for fuels shall include chipping, removing, piling, burning or other methods~~  
24 ~~necessary to achieve the standards. Treatments for any portion of the exemption area where~~  
25 ~~timber operations have occurred, except for burning operations, shall be done within one~~

1 hundred and twenty (120) days from the start of timber operations on that portion of the  
2 exemption area. Burning operations shall be completed in conformance with 14 CCR § 917.2(a)  
3 [937.2(a), 957.2(a)]. Treatment of surface fuels by burning shall be exempt from the one year  
4 time limitations described under 14 CCR § 1038.1.

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

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

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

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

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

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

24 (18) 14 CCR § 1038(j) shall expire on January 1, 2021.  
25

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

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

14 ~~(2) The exemption shall include a certification of ownership signed by the Timberland Owner.~~

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

16 ~~(A) Trees that are dead, or,~~

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

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

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

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



1 ~~(8) The Department shall monitor and report on the statewide use of the exemption, allowed~~  
2 ~~under 14 CCR § 1038(k), including the number of Harvest Area acres, the areas of application~~  
3 ~~and the degree of compliance. The Department shall, at a minimum, annually report its findings~~  
4 ~~to the Board.~~

5 ~~(9) 14 CCR § 1038(k) shall expire on December 31, 2021.~~

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

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

12 ~~(2) An RPF shall prepare the Notice of Exemption and submit it to the Director. Upon~~  
13 submission, the ~~Notice~~ notice of Exemption exemption shall include:

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

16 ~~(B) A map of the area of timber operations that complies with 14 CCR § 1034(x)(1), (3),~~  
17 ~~(4), (7) (8), (9), (10), (11) and (14).~~

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

20 ~~(DC)~~ A certification that states:

- 21 1. That a minimum of thirty-five (35) square feet of basal area per acre of  
22 California black or Oregon white oak, or both, occupy the Harvest Area prior to  
23 Timber Operations; and  
24 2. That the proposed Timber Operations are designed to restore and conserve  
25 California black oak and Oregon white oak and associated grasslands.

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

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

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

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

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

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

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

23 ~~(E) All Slash created by the Timber Operations shall be lopped, removed, chipped, piled~~  
24 ~~for burning, or otherwise treated, within one (1) year from the date of the Director~~  
25 ~~receiving the notice except for burning. Burning shall be completed within two (2) years~~



1 from the date of the Director receiving the notice and is exempt from the one year time  
2 limitations described under 14 CCR § 1038.1. Slash shall be treated to achieve a  
3 maximum post-harvest depth of eighteen (18) inches above the ground and As well as  
4 compliance with applicable Slash requirements pursuant to Table 1 of 14 CCR § 1038.1,  
5 all Slash shall be configured in a manner that minimizes risk of fire related mortality to all  
6 retained California black oak and Oregon white oak.

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

9 ~~(6) A notice of exemption pursuant to 14 CCR § 1038(l) this subsection is not applicable to~~  
10 ~~timberlands within the Southern Sub-District of the Coast Forest District as defined in 14 CCR §~~  
11 ~~895.4, or the Southern Forest District as defined in 14 CCR § 909.~~

12 ~~(7) 14 CCR § 1038(l) shall become inoperative on January 1, 2024.~~

13  
14 (f) The cutting or removal of trees that eliminates the vertical continuity of vegetative fuels and the  
15 horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a  
16 Fuelbreak. An exemption pursuant to this subdivision shall be known as the Small Timberland Owner  
17 Exemption. The cutting or removal of trees in compliance with this subdivision shall be subject to all of  
18 the following conditions:

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

21 (A) Sixty (60) acres or less of timberland within a single Planning Watershed

22 (CALWATER 2.2) within the Coast Forest District, or;

23 (B) One-hundred (100) acres or less of Timberland within a single Planning

24 Watershed (CALWATER 2.2) within the Northern or Southern Forest Districts.

25

1 (2) The RPF shall, upon submission of the notice of exemption, include a description of the pre-  
2 harvest stand structure and a statement of the minimum expected post-harvest stand Stocking  
3 levels. The residual stand shall consist primarily of healthy and vigorous dominant and  
4 codominant trees from the pre-harvest stand, well distributed throughout the Harvest Area.  
5 Minimum post-harvest Stocking Standards shall be achieved through Unevenaged  
6 Management, excluding group selection, and shall be as follows:

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

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

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

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

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

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

23 (A) No trees of the genus *Quercus sp.* that are greater than twenty-six (26) inches  
24 outside bark stump diameter, measured at eight (8) inches above ground level, may be  
25 removed.

1 (5) The six (6) largest trees per acre within the boundaries of the notice of exemption shall be  
2 retained.

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

7 (7) Vertical spacing in the Harvest Area shall be achieved by treating dead fuels, excluding dead  
8 branches on the trees retained for stocking, to a minimum clearance distance of eight (8) feet  
9 measured from the base of the live crown of the post-harvest Dominants and Codominants to  
10 the top of the dead surface or ladder fuels, whichever is taller.

11 (8) The post-harvest canopy closure for trees which are Dominants and Codominants shall  
12 comply with the standards of 14 CCR § 1052.4(d)(3)(A).

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

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

20 (11) The Department shall only accept a maximum of three (3) notices of exemption pursuant to  
21 this subsection submitted on behalf of a timberland owner.

22 (12) This subsection will expire on January 23, 2014.

23 ~~(n) Harvesting dead or Dying Trees of any size to facilitate the removal of hazardous material and the~~  
24 ~~reconstruction or construction of Approved and Legally Permitted Structures that were damaged or~~  
25 ~~destroyed by wildfire in the Counties of Lake, Siskiyou, Mendocino, Shasta, Trinity, and Napa during~~

1 ~~2018. The provisions of a Notice of Exemption submitted pursuant to this subsection supersede the~~  
2 ~~provisions of any other Notices of Exemption that are submitted in the same Harvest Area. In addition to~~  
3 ~~compliance with 14 CCR §§ 1038(b)(1)-(10) and 1038.1, the following apply:~~

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

6 ~~(2) The Notice of Exemption shall include:~~

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

8 ~~(B) the total acreage of the Harvest Area;~~

9 ~~(C) an enlarged 7½ minute quadrangle map, or its equivalent, that is not less than one~~

10 ~~(1) inch equals 1,000 feet showing the location of the boundaries of the Harvest Area;~~

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

12 ~~(E) the tentative commencement date of Timber Operations.~~

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

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

21 ~~(5) All Slash created between one hundred fifty (150) feet and three hundred (300) feet of an~~  
22 ~~Approved and Legally Permitted Structure that was damaged or destroyed by wildfire shall be~~  
23 ~~treated by Lopping for Fire Hazard Reduction, removed, chipped or piled and burned within~~  
24 ~~forty-five (45) days from the start of Timber Operations; except for the burning of piles, which~~  
25

1 shall be accomplished not later than April 1 of the year following their creation; or for piles  
2 created on or after September 1, not later than April 1 of the second year following creation.

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

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

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

21  
22 **§ 1038.1. Compliance with Act and Rules.**

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

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

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

3 (3) Before beginning Timber Operations, the Timber Operator shall notify the Department of the  
4 actual commencement date of operations. The notification, by telephone, mail, or email, shall be  
5 directed to the appropriate CAL FIRE Unit Headquarters, Forest Practice Inspector or other  
6 designated personnel. If the notification is provided by mail, Timber Operations may not  
7 commence until three (3) days after the postmark date of notification.

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

10  
11 **§ 1038.1. Additional Exceptions or Requirements**

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

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

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

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

(1) All Timber Operations conducted in the Lake Tahoe region must have a valid Tahoe Basin Tree Removal Permit, as defined by TRPA, or shall be conducted under a valid TRPA Memorandum of Understanding, when such a permit is required by TRPA.

(2) The Department shall provide the appropriate RWQCB, CDFW, and CGS with copies of the submitted notice of exemption prior to the tentative date of commencement of Timber Operations.

(3) No helicopter yarding shall be allowed.

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

**Table 1: Additional Exceptions or Requirements**

<u>Applicable Exceptions or Requirements</u>	<u>Notice of Exemption Type(s)</u>
<u>14 CCR § 1038.1(c)(1)</u>	<u>14 CCR § 1038(c)(6), (d), (e), and (f)</u>
<u>14 CCR § 1038.1(c)(2)</u>	<u>14 CCR § 1038 (e) and (f)</u>
<u>14 CCR § 1038.1(c)(3)</u>	<u>Applies to all notices of exemption pursuant to 14 CCR § 1038</u>
<u>14 CCR § 1038.1(c)(4)(A)</u>	<u>14 CCR § 1038 (d)</u>
<u>14 CCR § 1038.1 (c)(4)(B)</u>	<u>14 CCR § 1038 (e) and (f)</u>
<u>14 CCR § 1038.1(c)(5) through (14)</u>	<u>14 CCR § 1038 (b), (c), (d), (e), and (f)</u>
<u>14 CCR § 1038.1(c)(15)</u>	<u>14 CCR § 1038 (a), (b), (c), (d), and (e)</u>

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

(2) Upon submission of the notice of exemption, a Confidential Archaeological Letter pursuant to 14 CCR § 929.1 [949.1; 969.1] must be provided to the Director and the RPF shall send a copy of the notice of exemption to Native Americans as defined in 14 CCR § 895.1.

1 (3) No Timber Operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a  
2 Significant Archaeological or Historical Site (information on some of these sites may be  
3 available from the Information Centers of the California Historical Resources Information  
4 System within the Department of Parks and Recreation), except under the following  
5 conditions:

6 (A) If a Significant Archaeological or Historical Site is identified by the RPF  
7 preparing the notice of exemption within the project boundary, the site may  
8 be preserved in place by capping or covering with a layer of soil prior to  
9 submission.

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

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

16 (4) Fuel treatments as follows:

17 (A) Slash within the Harvest Area shall be treated to achieve a maximum post-harvest  
18 depth of thirty (30) inches above the ground. All Slash shall be lopped, removed,  
19 chipped, piled for burning, or otherwise treated, within one (1) year from the date of  
20 the Director receiving the notice except for burning. Burning shall be completed  
21 within two (2) years from the date of the Director receiving the notice.

22 (B) Slash shall be treated to achieve a maximum post-harvest depth of eighteen (18)  
23 inches above the ground on at least eighty (80) percent of the Harvest Area. All  
24 Slash shall be lopped, removed, chipped, piled for burning, or otherwise treated,  
25 within one (1) year from the date of the Director receiving the notice except for



1                    burning. Burning shall be completed within two (2) years from the date of the  
2                    Director receiving the notice.

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

4                    No construction of new tractor roads on slopes greater than forty (40) percent.

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

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

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

9 (9) No heavy equipment operations within the standard width of a WLPZ, as defined in 14 CCR  
10                    § 916.4 [936.4, 956.4] (b), except for maintenance of roads and Drainage Facilities or  
11                    structures.

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

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

15 (12) No timber harvesting within the standard width of a WLPZ, as defined in 14 CCR § 916.4  
16                    [936.4, 956.4] (b), except sanitation-salvage harvesting, as defined in 14 CCR § 913.3  
17                    [933.3, 953.3], where immediately after completion of operations, the area shall meet the  
18                    Stocking Standards of 14 CCR § 912.7 [932.7, 952.7] (b)(2), or, except the removal of dead  
19                    or dying trees where consistent with 14 CCR § 916.4 [936.4, 956.4] (b). Trees to be  
20                    harvested shall be marked by, or under the supervision of, an RPF prior to Timber  
21                    Operations.

22 (13) The Director shall notify the submitter of the date of the Director's receipt of the notice of  
23                    exemption. Timber Operations pursuant to the notice of exemption may not commence for  
24                    five (5) working days from the date of the Director's receipt of the notice of exemption unless  
25                    this delay is waived by the Director. If the notice of exemption is not complete and accurate,

1 the Director shall notify the submitter within five (5) working days from the date of the  
2 Director's receipt, and the Timber Operations may not commence. The Director shall  
3 determine whether the notice of exemption is complete, and if so, shall send a copy of a  
4 notice of acceptance to the submitter; provided, however, if the Director does not act within  
5 five (5) working days of receipt of the notice of exemption, Timber Operations may  
6 commence.

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

10 (14) Before beginning Timber Operations, the LTO, RPF, or person responsible for submittal of  
11 the notice of exemption shall notify CAL FIRE of the actual commencement date of  
12 operations. The notification, by telephone, mail, or email, shall be directed to the appropriate  
13 CAL FIRE Unit Headquarters, Forest Practice Inspector or other designated personnel. If the  
14 notification is provided by mail, Timber Operations may not commence until three (3) days  
15 after the postmark date of notification. The provisions of this paragraph do not supercede the  
16 requirements of paragraph (13) above.

17 (15) No large old trees, defined as a tree that existed before 1800 AD and is greater than sixty  
18 (60) inches in diameter at stump height for Sierra or Coast Redwoods, and forty-eight (48)  
19 inches in diameter at stump height for all other tree species, or Decadent and Deformed  
20 Trees with Value to Wildlife shall be harvested unless the following apply:

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

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

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

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

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

7                   (C) A registered professional forester's written explanation or justification need  
8                   not be attached to the submitted notice of exemption if an approved Habitat  
9                   Conservation Plan, Sustained Yield Plan, or Plan addresses large old tree  
10                  retention for the area in which the large old tree is proposed for removal and the  
11                  removal is in compliance with the retention standards of that document.

12 **§ 1038.2. Exemption Form.**

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

16 (a) ~~Type of operation to be conducted.~~

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

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

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

21 (e) ~~The tentative commencement date of timber operations~~

22 (f) ~~In addition to (a) through (e) above, the following shall be included for exemptions conducted under~~  
23 ~~14 CCR § 1038(c);~~

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

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

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

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

10 (g) In addition to (a) through (f) above, the following shall be included for exemptions conducted under  
11 14 CCR § 1038(c)(6):

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

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

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

18 (4) A certification that the exemption notice has been prepared and submitted by an RPF.

19 (h) In addition to (a) through (c) above, the following shall be included for exemptions conducted under  
20 14 CCR § 1038(i) and (j):

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

23 (2) A description of the pre-harvest stand structure and a statement of the post-harvest stand  
24 Stocking levels.

25

1 ~~(32) A description of the selection criteria for the trees to be removed or the trees to be retained.~~  
2 ~~The selection criteria shall specify how the trees to be removed, or how the trees to be retained,~~  
3 ~~will be designated.~~

4 ~~(4) A certification that the exemption notice has been prepared and submitted by an RPF.~~

5 ~~Note: Authority cited: Sections 4551, 4553 and 4584, Public Resources Code. Reference:~~  
6 ~~Sections 4527 and 4584, Public Resources Code.~~

7  
8 **§ 1038.2. Mapping Standards for Notices of Exemption.**

9 A submitted notice of exemption shall include a seven-and-one-half (7½) minute USGS quadrangle map,  
10 or its equivalent, depicting the information as required in Table 1 below. Additional maps, which may be  
11 topographic or planimetric, may be used to provide additional information, to show specific details, and  
12 to improve map clarity. A larger scale map such as an assessor parcel map showing the location of the  
13 Timber Operations shall be included for exemptions conducted under 14 CCR § 1038 (c). The  
14 Appurtenant Roads included within the Logging Area pursuant to subsection (b) below may be shown on  
15 a map which may be planimetric with a scale as small as one-half inch equals one mile. Color coding  
16 shall not be used. A legend shall be included indicating the meaning of the symbols used. The submitted  
17 notice of exemption shall indicate if more than one Yarding system is to be used and identify the  
18 systems (if more than one is used).

19  
20 **Table 1: Mapping Requirements**

Applicable Mapping Requirements	Notice of Exemption Type(s)
14 CCR § 1038.2 (a)	14 CCR § 1038 (a) & (c)
14 CCR § 1038.2 (b), (c), (k)	14 CCR § 1038 (b), (c)(6), (d), (e), and (f)
14 CCR § 1038.2 (d) through (f)	14 CCR § 1038(c)(6) through (f)
14 CCR § 1038.2 (g), (h), and (j)	14 CCR § 1038 (c)(6), (e), and (f)

14 CCR § 1038.2 (i)	14 CCR § 1038 (b) through (f)
14 CCR § 1038.2 (l)	14 CCR § 1038(f)

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

**Adopt: § 1038.3 Forest Fire Prevention Exemption.**

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 are exempt from the plan preparation and submission requirements (PRC § 4581) and from the completion report and stocking report requirements (PRC §§ 4585 and 4587) of the FPA. Timber Operations conducted under any notice of exemption described herein shall be limited to one (1) year

1 from the date of receipt by the Director, and shall comply with all operational provisions of the FPA and  
2 District Forest Practices Rules applicable to "Timber Harvest Plan", "THP", and "Plan" definitions per 14  
3 CCR § 895.1. This exemption shall be known as the Forest Fire Prevention Exemption. Preparation and  
4 submittal of notices of exemption under this section, or Timber Operations conducted thereunder, shall  
5 comply with the following conditions, exceptions, or requirements as described.

6 (a) Comply with the requirements of Title 14 CCR §§ 1038.1 (c),(5), (6), (7), and (9) through (12)  
7 inclusive.

8 (b) This exemption shall only be used on Timberlands that are within the most recent version of  
9 the Department's Fire Hazard Severity Zone Map, which can be found on the Department's  
10 website: <http://www.fire.ca.gov>, that shows the exemption will occur in areas determined to be  
11 moderate, high and very high fire threat areas.

12 (c) The Harvest Area shall not exceed three-hundred (300) acres.

13 (d) (1) Slash and Woody Debris shall be treated to achieve a maximum post-harvest depth of  
14 eighteen (18) inches above the ground except within one-hundred-fifty (150) feet from  
15 any point of an approved and legally permitted structure that complies with the California  
16 Building Code.

17 (2) All surface fuels within one-hundred-fifty (150) feet of an Approved and Legally  
18 Permitted Structure, which could promote the spread of wildfire, shall be chipped,  
19 burned, or removed within forty-five (45) days from the start of Timber Operations.

20 (3) All fuel treatments shall be completed within one (1) year from the date the Director  
21 receives the notice. This requirement does not apply to burning, which instead shall be  
22 completed within two (2) years from the date the Director receives the notice.

23 (4) The requirements of this subsection shall not supersede the requirements of PRC §  
24 4291.

1 (e) The construction or reconstruction of Temporary Roads on slopes of thirty (30) percent or less  
2 shall be allowed if all of the following conditions are met:

3 (1) Temporary Roads or Landings shall not be located on Unstable Areas.

4 (2) Temporary Roads shall be single lane in width.

5 (3) Temporary Roads shall not be located across a Connected Headwall Swale.

6 (4) Construction or re-construction of Temporary Roads, Landings or Watercourse  
7 crossings shall not occur during the Winter Period.

8 (A) Roads and Landings used for log hauling or other heavy equipment uses  
9 during the Winter Period shall occur on a Stable Operating Surface and, if  
10 necessary, be surfaced with rock to a depth and quantity sufficient to maintain  
11 a Stable Operating Surface. No operation shall be permitted on roads that are  
12 not subject to Hydrological Disconnection, or which exhibit Saturated Soil  
13 Conditions.

14 (B) Timber Operations during the Winter Period shall comply with the applicable  
15 Rule sections under 14 CCR § 923 [943, 963] et seq.

16 (C) Use of Temporary Roads shall comply with the operational provisions of 14  
17 CCR § 923 [943, 963] et seq.,

18 (D) No Logging Road or Landings construction, or reconstruction, activities shall  
19 occur within two-hundred (200) feet of Class I and Class II Watercourses, or  
20 within fifty (50) feet of a Class III Watercourse.

21 (5) Temporary Road construction or reconstruction, shall be limited to no more than two  
22 (2) miles of road per ownership within a single Planning Watershed (CALWATER 2.2)  
23 per any five (5) year period.



- 1 (A) For exemptions that are less than forty (40) acres, all Temporary Roads  
2 constructed and/or reconstructed shall not exceed a cumulative length of  
3 three-hundred (300) feet.
- 4 (B) For exemptions between forty (40) and eighty (80) acres, this standard shall  
5 not exceed three-hundred (300) to six-hundred (600) feet, as determined on a  
6 pro rata basis by total acreage affected by the exemption.
- 7 (C) For exemptions over eighty (80) acres, this standard shall not exceed six-  
8 hundred (600) feet.
- 9 (D) Temporary Roads constructed or reconstructed under this section shall not be  
10 connected to other Temporary Roads constructed under previous or  
11 subsequent exemptions filed pursuant to this section.
- 12 (E) Prior to completion of Timber Operations, all Temporary Roads constructed or  
13 reconstructed under this section shall undergo Abandonment in a manner  
14 which uses protective measures that will effectively remove them from the  
15 Permanent Road Network, as defined in 14 CCR § 895.1.
- 16 (F) No tree larger than thirty-six (36) inches in diameter at stump height, measured  
17 eight (8) inches above ground level, shall be removed for the purposes of road  
18 construction or reconstruction as it applies to this exemption. Trees between  
19 thirty (30) and thirty-six (36) inches in diameter at stump height, measured  
20 eight (8) inches above ground level, may be removed for the purposes of road  
21 construction or reconstruction when no other feasible option exists for road  
22 construction activities.

- 23 (f) The RPF responsible for submission of the notice of exemption shall designate Temporary  
24 Road locations, Landing locations, Tractor Road crossings of Class III Watercourses, Unstable  
25

1 Areas, or Connected Headwall Swales on the ground prior to submission of the notice of  
2 exemption.

3 (g) The QMD of trees greater than eight (8) inches DBH in the Harvest Area shall be increased in  
4 the post-harvest stand. The submitted notice of exemption shall report the expected post-  
5 harvest increase in QMD.

6 (h) Except within constructed or reconstructed road prisms, only trees less than thirty (30) inches  
7 in stump diameter, measured eight (8) inches above ground level, may be removed.

8 (i) All trees that are harvested or all trees that are retained shall be marked or sample marked by,  
9 or under the supervision of, an RPF before felling operations begin. Sample marking shall be  
10 limited to homogeneous forest stand conditions typical of plantations. When trees are sample  
11 marked, the prescription for unmarked areas shall be in writing and the sample mark area shall  
12 include at least ten (10) percent of the harvest area to a maximum of twenty (20) acres per  
13 stand type which is representative of the range of conditions present in the area.

14 (j) If the preharvest crown canopy of Dominants and Codominants is occupied by trees less than  
15 fourteen (14) inches in Diameter at breast height, a minimum of one-hundred (100) trees over  
16 four inches in Diameter at breast height shall be retained per acre for Site I, II, and III lands,  
17 and a minimum of seventy-five (75) trees over four inches in Diameter at breast height shall be  
18 retained per acre for Site IV and V lands.

19 (k) The following canopy, retention, and spacing standards shall be achieved on at least eighty  
20 (80) percent of the Harvest Area:

21 (1) Minimum post treatment canopy closure shall comply with the standards of 14 CCR §  
22 1052.4 (d)(3)(A)

23 (2) Minimum post treatment canopy closure of dominant and codominant trees shall be  
24 sixty (60) percent for coastal redwood and Douglas-fir forest types outside areas  
25 referenced in 14 CCR § 1038.4 (i)(2)

- 1           (3) Minimum post treatment canopy closure of trees which are Dominants and  
2           Codominants shall be fifty (50) percent for mixed conifer and all other forest types.  
3           (4) Post treatment stand shall contain no more than two-hundred (200) trees per acre over  
4           three (3) inches in dbh.  
5           (5) Vertical spacing shall be achieved by treating dead fuels, excluding dead branches on  
6           the trees retained for stocking, to a minimum clearance distance of eight (8) feet  
7           measured from the base of the live crown of the post-harvest Dominants and  
8           Codominants to the top of the dead surface or ladder fuels, whichever is taller.

9           (l) Helicopter Yarding shall be prohibited.

10          (m) The RPF shall comply with Section 1035.2 of Title 14 of the California Code of Regulations,  
11          relating to interaction between the LTO and the RPF.

12          (n) All Timber Operations conducted in the Lake Tahoe Region pursuant to 14 CCR § 1038.4, if  
13          applicable, must have a valid Tahoe Basin Tree Removal Permit (as defined by the Tahoe  
14          Regional Planning Agency) or shall be conducted under a valid TRPA Memorandum of  
15          Understanding, when such a permit is required by TRPA.

16          (o) Upon submission of the notice of exemption, a Confidential Archaeological Letter pursuant to  
17          14 CCR § 929.1 [949.1; 969.1] must be provided to the Director and the RPF shall send a copy  
18          of the notice of exemption to Native Americans as defined in 14 CCR § 895.1.

19          (p) No Timber Operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a  
20          Significant Archaeological or Historical Site may be conducted (information on some of these  
21          sites may be available from the Information Centers of the California Historical Resources  
22          Information System within the Department of Parks and Recreation),

23          (q) If a notice of exemption has been accepted by the Director and will use pesticides or herbicides  
24          on the Harvest Area within one (1) calendar year of the date of acceptance, the timberland  
25

1 owner shall notify the appropriate regional water quality control board within ten (10) days prior  
2 to application of pesticides or herbicides.

3 (r) Subsequent to the completion of Timber Operations operating under this section, the  
4 Department shall conduct an onsite inspection to determine compliance with this section. The  
5 Department shall notify the appropriate RWQCB, the CDFW, and the CGS seven (7) days prior  
6 to conducting the onsite inspection.

7 (s) The notice of exemption shall be prepared by, signed, and submitted by an RPF. The RPF  
8 shall be retained to oversee all construction or reconstruction of Roads and/or Landings, and  
9 provide for necessary mitigation to avoid potential impacts.

10 (1) The notice of exemption shall be submitted to the Director, on a form provided by the  
11 Department, prior to the commencement of Timber Operations. The form shall contain  
12 the following information:

13 (A) Name(s), address, and telephone number(s) of the Timber Owner(s),  
14 timberland owner(s), and Timber Operator.

15 (B) Name, address, and telephone number and license number of the RPF  
16 preparing and submitting the notice of exemption.

17 (C) Legal description of the location of the Timber Operations.

18 (D) The tentative date of commencement of Timber Operations.

19 (E) A signature of the landowner certifying that they are the landowner and have  
20 read and understand the information contained within the notice of exemption.

21 (2) The notice of exemption shall include:

22 (A) a description of preharvest stand structure; and

23 (B) an estimate of pre and post-harvest QMD and certification by the RPF that, in  
24 their professional judgment, post-harvest slash treatment and stand conditions  
25 will lead to more moderate fire behavior.

1 (3) The RPF shall, upon submission of the notice of exemption:

2 (A) certify that the level of residual stocking shall be consistent with maximum  
3 sustained production of high quality timber products. The residual stand shall  
4 consist primarily of healthy and vigorous Dominants and Codominants from the  
5 preharvest stand. Trees retained to meet the Basal Area stocking standards  
6 shall be selected from the largest trees available on the project area prior to  
7 harvest. In no case shall stocking be reduced below the standards found within  
8 14 CCR § 913.3 [933.3, 953.3] (a).

9 (B) affirm that the construction or reconstruction of each Temporary Road is  
10 necessary to provide access to Harvest Areas when no other feasible  
11 alternative exists. The notice shall include the total number of and cumulative  
12 length of Temporary Roads being constructed and/or reconstructed.

13 (C) provide the selection criteria for the trees to be removed or the trees to be  
14 retained. In the development of these criteria, and the fuel reduction  
15 prescriptions, the RPF should consider retaining habitat elements, where  
16 feasible, including, but not limited to, ground level cover necessary for the  
17 long-term management of local wildlife populations. The selection criteria shall  
18 specify how the trees to be removed, or how the trees to be retained, will be  
19 designated.

20 (4) The Director shall notify the submitter of the date of the Director's receipt of the notice  
21 of exemption. Timber Operations pursuant to the notice of exemption may not  
22 commence for ten (10) working days from the date of the Director's receipt of the  
23 notice of exemption unless the delay is waived by the Director. If the notice of  
24 exemption is not complete and accurate, the Director shall notify the submitter within  
25 five (5) working days from the date of the Director's receipt, and the Timber Operations

1 may not commence. The Director shall determine whether the notice of exemption is  
2 complete, and if so, shall send a copy of a notice of acceptance to the submitter;  
3 provided, however, if the Director does not act within ten (10) working days of receipt  
4 of the notice of exemption, Timber Operations may commence. Timber Operations  
5 may not be conducted without a copy of the Director's notice of acceptance of the  
6 notice of exemption at the operating site, except where the Director has failed to act  
7 within the ten (10) working-day review period.

8 (5) Upon receipt of the submitted notice of exemption, the Director shall place it, or a true  
9 copy thereof, in a file available for public inspection, and shall transmit a copy to the  
10 CDFW, the appropriate RWQCB, and the CGS.

11 (t) Before beginning Timber Operations, the RPF responsible for submittal of the notice of  
12 exemption shall notify the Department, the appropriate RWQCB, the CDFW, and the CGS of  
13 the actual commencement date of operations. The notification, by telephone, mail, or email,  
14 shall be directed to the appropriate agency personnel and contact information for the  
15 appropriate agency personnel shall be provided by the Department on the notice of exemption  
16 form. If the notification is provided by mail, Timber Operations may not commence for three (3)  
17 days after the postmark date of notification.

18 (u) 14 CCR § 1038.4 shall expire on \_\_\_\_\_.

19  
20 **Adopt: § 1038.4**

21 **§ 1038.4. Mapping Standards for the Forest Fire Prevention Exemption.**

22 An exemption pursuant to this 14 CCR § 1038.4 will be mapped on a USGS 7 ½ minute quadrangle map,  
23 or equivalent topographic maps, and shall contain all required information stated within this section.

24 Additional maps, which may be topographic or planimetric, may be used to provide the information  
25 required in this section, to show specific details, and to improve map clarity. Appurtenant Roads may be

1 shown on a separate map which may be planimetric with a scale as small as one-half inch equals one  
2 mile. Color coding may not be used. A legend shall be included indicating the meaning of symbols used.

3 (a) Boundaries of the Logging Area

4 (b) Boundaries of Yarding (logging) systems, if more than one system is used.

5 (c) Location of all roads to be used for, or potentially impacted by, Timber Operations. This shall  
6 include:

7 (1) The classification of all roads as proposed, Permanent, Seasonal, Temporary, Deactivated,  
8 or proposed for Abandonment.

9 (2) Roads and Landings located in Watercourses, Lakes, WLPZs, marshes, Wet Meadows and  
10 other Wet Areas, other than at road Watercourse crossings.

11 (3) Logging Roads that provide access to rock pits and water drafting sites, and the location of  
12 water drafting sites.

13 (4) Public Roads within one-quarter (1/4) mile of the Harvest Area.

14 (5) The location of Significant or Existing Potential Erosion Sites on all Roads and Landings  
15 pursuant to 14 CCR § 923.1 (e).

16 (d) For all constructed and reconstructed Logging Roads and Landings, the following shall be  
17 mapped:

18 (1) Location of Logging Road grades greater than fifteen (15) percent for over two-hundred (200)  
19 continuous feet or Logging Roads grades exceeding twenty (20) percent.

20 (2) Location of Road Failures on existing Logging Roads to be Reconstructed.

21 (3) Location of Landings, specifying those that require substantial excavation and those in  
22 excess of one-quarter acre in size.

23 (4) Location of excess material disposal sites on slopes greater than forty (40) percent or on  
24 active Unstable Areas.

25 (e) Location of all tractor road Watercourse crossings of classified Watercourses.

1 (f) Location of Erosion Hazard Ratings, if more than one rating exists.

2 (g) Location of Watercourses and Lakes with Class I, II, III, or IV waters.

3 (h) Location of known Unstable Areas.

4 (i) Location of understocked areas prior to Timber Operations, and other areas not normally bearing  
5 timber to at least a 20-acre minimum, or as specified in the district rules.

6 (j) Location of boundaries of timber-site classes needed for determination of Stocking Standards to  
7 be applied, down to at least a twenty (20) acre minimum, or as specified in the District Rules.

8 (k) Location of any Special Treatment Areas.

9 **Adopt: 14 CCR § 1038.5. Post-Fire Recovery Exemption**

10 (a) Harvesting dead or Dying Trees of any size to facilitate the removal of hazardous material and the  
11 reconstruction or construction of Approved and Legally Permitted Structures that were damaged or  
12 destroyed by wildfire in the Counties of Lake, Siskiyou, Mendocino, Shasta, Trinity, and Napa during  
13 2018. The provisions of a ~~Notice notice of Exemption exemption~~ submitted pursuant to this subsection  
14 supersede the provisions of any other ~~Notices notices of Exemption exemption~~ that are submitted in the  
15 same Harvest Area. A Person conducting Timber Operations under any exemption as described in this  
16 section shall be limited to one year from the date of receipt by the Department, and shall comply with all  
17 operational provisions of the Forest Practice Act and District Forest Rules applicable to "Timber Harvest  
18 Plan", "THP", and "Plan". Before beginning Timber Operations, the Timber Operator shall notify the  
19 Department of the actual commencement date of operations. The notification, by telephone, mail, or  
20 email, shall be directed to the appropriate CAL FIRE Unit Headquarters, Forest Practice Inspector or  
21 other designated personnel. If the notification is provided by mail, Timber Operations may not  
22 commence until three (3) days after the postmark date of notification. In-lieu practices of Watercourse  
23 and Lake Protection Zones as specified under Article 6 of these Rules, exceptions to Rules, and  
24 alternative practices are not allowed. In addition to compliance with 14 CCR §§ ~~1038(b)(1)-(10)~~ and  
25 1038.1 (c)(5) through (12) inclusive and 14 CCR § 1038.3 (p), the following apply:



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

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

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

5 (B) the total acreage of the Harvest Area;

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

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

10 (E) the tentative commencement date of Timber Operations.

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

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

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

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

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

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