

**State of California  
Office of Administrative Law**

**In re:**  
Board of Forestry and Fire Protection

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections:**  
**Amend sections:** 1038, 1038.3, 1052.4  
**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2024-1009-03**

**OAL Matter Type: Regular (S)**

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In this rulemaking action, the Board amends its regulations to update its drought mortality and forest fire prevention exemptions. The amendments modify canopy closure requirements. They add an acreage limitation for the exemption related to harvesting dead trees, dying trees or diseased trees. They remove the Small Timberland Owner Exemption and other provisions related to it. They add a sunset date of January 1, 2026, to the Forest Fire Prevention Exemption, pursuant to Public Resources Code section 4584, subdivision (k)(12).

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2025.

Date: November 20, 2024



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Thanh Huynh  
Senior Attorney

For: Kenneth J. Pogue  
Director

Original: Edith Hannigan, Executive  
Officer  
Copy: Jane Van Susteren

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
Z-		2024-1009-035	

ENDORSED - FILED in the office of the Secretary of State of the State of California

NOV 20 2024 1:41 PM

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OFFICE OF ADMIN. LAW  
2024 OCT 9 PM 4:47

NOTICE REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
Board of Forestry and Fire Protection

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE
				2024, 23-2	6/7/24

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Drought Mortality and Forest Fire Prevention Exemption Amendments	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
1038, 1038.3, and 1052.4	AMEND
TITLE(S) 14	REPEAL

PER AGENCY REQUEST 11/20/2024 TH

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))  Effective on filing with Secretary of State  \$100 Changes Without Regulatory Effect  Effective other (Specify) January 1, 2025, per PRC 4554.5

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)  Fair Political Practices Commission  State Fire Marshal

Other (Specify)

7. CONTACT PERSON Jane Van Susteren	TELEPHONE NUMBER (916) 619-9795	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) jane.vansusteren@bof.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

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ENDORSED APPROVED

NOV 20 2024

Office of Administrative Law

SIGNATURE OF AGENCY HEAD OR DESIGNEE Jane Van Susteren <small>Digitally signed by Jane Van Susteren Date: 2024.10.09 15:44:25 -0700</small>	DATE October 9, 2024
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TYPED NAME AND TITLE OF SIGNATORY  
Jane Van Susteren, Regulations Coordinator

1 **Board of Forestry and Fire Protection**

2 **Drought Mortality and Forest Fire Prevention Exemption Amendments, 2024**

3 **Title 14 of the California Code of Regulations**

4 **Division 1.5, Chapter 4,**

5 **Subchapter 7**

6  
7 **§ 1038 - Exemption**

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

18 (a) Harvesting Christmas trees.

19 (b) Harvesting dead trees, Dying Trees, or Diseased Trees of any size, fuelwood or split  
20 products in amounts less than ten (10) percent of the average volume per acre, or the  
21 removal of Slash and Woody Debris that is not located within a WLPZ.

22 (c) The cutting or removal of trees in compliance with PRC §§ 4290 and 4291, which  
23 eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree  
24 crowns for the purpose of reducing flammable materials and maintaining a fuelbreak to  
25

1 reduce fire spread, duration and intensity. The requirements of this subsection shall not  
2 supersede the requirements of PRC § 4291.

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

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

8 (3) All surface fuels created by Timber Operations, within one-hundred-fifty (150)  
9 feet of an Approved and Legally Permitted Structure, that could promote the spread of  
10 wildfire, including Slash or Woody Debris, exceeding one (1) inch in diameter, and  
11 brush, shall be chipped, burned, or removed within forty-five (45) days from the start of  
12 Timber Operations.

13 (4) In addition to the surface fuel treatment described in 14 CCR § 1038(c)(3),  
14 the Harvest Area must meet the vegetation treatment standards in PRC § 4584(i)(1) to  
15 (2)(A) illustrated in Board Technical Rule Addendum No.4 within one (1) year from the  
16 receipt of issuance of notice of acceptance. This paragraph does not apply to 14 CCR §  
17 1038(c)(6).

18 (5) Timber Operations conducted under this subsection shall conform to the  
19 applicable city or county general plans, city or county implementing ordinances, and city  
20 or county zoning ordinances within which the notice of exemption is located. The LTO,  
21 timberland owner, or if applicable the RPF, shall certify that the city or county has been  
22 contacted and the notice of exemption conforms with all city or county regulatory  
23 requirements.

24 (6) Trees that are located from one-hundred-fifty (150) feet up to three-hundred  
25 (300) feet from any point of an Approved and Legally Permitted Habitable Structure that

1 complies with the California Building Standards Code may also be cut and removed for  
2 the purpose of reducing flammable materials and maintaining a fuelbreak provided the  
3 following conditions are met:

4 (A) The post-harvest stand shall be primarily comprised of healthy and vigorous  
5 Dominant and Codominant trees well-distributed throughout the treated area and  
6 meet the stocking standards consistent with 14 CCR § 913.2 [933.2, 953.2].

7 (B) The QMD of trees greater than eight (8) inches dbh in the pre-harvest  
8 Harvest Area shall be increased in the post-harvest stand.

9 (C) All Slash shall be lopped, removed, chipped, piled and burned, or otherwise  
10 treated to achieve a maximum post-harvest depth of eighteen (18) inches above  
11 the ground within forty-five (45) days from the start of Timber Operations except  
12 for the burning of piles, which shall be accomplished not later than April 1 of the  
13 year following their creation, or for piles created on or after September 1, not  
14 later than April 1 of the second year following creation. Treatment of surface fuels  
15 by burning shall be exempt from the one-year time limitations on Timber  
16 Operations described under 14 CCR § 1038.

17 (D) The notice of exemption shall include site class, an estimate of pre- and post-  
18 harvest QMD and certification by the RPF that, in their professional judgment,  
19 post-harvest Slash treatment and stand conditions will lead to more moderate fire  
20 behavior.

21 (E) 14 CCR § 1038(c)(6) shall expire pursuant to PRC 4584(m)(3).

22 (d) Harvesting dead trees, Dying Trees or Diseased Trees, fuelwood, or split products in  
23 response to drought related stress or dead trees which are unmerchantable as sawlog-  
24 size timber that are located upon Substantially Damaged Timberlands when the  
25 following conditions are met:

1 (1) The RPF certifies that the notice of exemption is submitted upon Substantially  
2 Damaged Timberland when necessary.

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

5 (A) Trees that are dead, or,

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

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

14 (3) The Harvest Area shall not exceed five-hundred (500) acres.

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

18 (1) The Harvest Area does not cumulatively exceed, during any five-(5) year  
19 period, three-hundred (300) acres per ownership in a Planning Watershed (CALWATER  
20 2.2), for the timberland owner(s) identified pursuant to 14 CCR § 1038.1(a)(2).

21 (2) Upon submission, the notice of exemption shall include:

22 (A) Total acreage of the exemption Harvest Area per Planning Watershed  
23 (CALWATER 2.2).

24 (B) A description of the pre-harvest and post-harvest stand structure including an  
25 estimate, by species, of diameter distribution, and basal area.

1 (C) A certification that states:

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

5 2. That the proposed Timber Operations are designed to restore and  
6 conserve California black oak and Oregon white oak and associated grasslands.

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

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

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

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

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

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

20 (E) As well as compliance with applicable Slash requirements pursuant to Table  
21 1 of 14 CCR § 1038.1, all Slash shall be configured in a manner that minimizes  
22 risk of fire related mortality to all retained California black oak and Oregon white  
23 oak.

24 (5) A notice of exemption pursuant to this subsection is not applicable within the  
25 Southern Sub-District of the Coast Forest District or the Southern Forest District.

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

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

9 (A) Sixty (60) acres or less of timberland within a single Planning Watershed  
10 (CALWATER 2.2) within the Coast Forest District, or;

11 (B) One hundred (100) acres or less of Timberland within a single Planning  
12 Watershed (CALWATER 2.2) within the Northern or Southern Forest Districts.

13 (2) The RPF shall, upon submission of the notice of exemption, include a  
14 description of the pre-harvest stand structure and a statement of the minimum expected  
15 post-harvest stand Stocking levels. The residual stand shall consist primarily of healthy  
16 and vigorous dominant and codominant trees from the pre-harvest stand, well  
17 distributed throughout the Harvest Area. Minimum post-harvest stocking standards shall  
18 be achieved through Unevenaged Management, excluding group selection, and shall be  
19 as follows:

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

24 (B) On Site II lands, a minimum of one hundred (100) square feet of basal area  
25 shall be retained within the Coast Forest District, while a minimum of seventy-five



1 ~~(75) square feet of basal area shall be retained within the Northern and Southern~~  
2 ~~Forest Districts.~~

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

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

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

10 ~~(4) Only trees less than thirty two (32) inches stump diameter, measured at eight~~  
11 ~~(8) inches above ground level, may be removed, with the following exception:~~

12 ~~(A) No trees of the genus Quercus sp. that are greater than twenty six (26)~~  
13 ~~inches stump diameter, measured at eight (8) inches above ground level, may be~~  
14 ~~removed.~~

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

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

22 ~~(7) Vertical spacing in the Harvest Area shall be achieved by treating dead fuels,~~  
23 ~~excluding dead branches on the trees retained for Stocking, to a minimum clearance~~  
24 ~~distance of eight (8) feet measured from the base of the live crown of the post-harvest~~  
25

1 Dominants and Codominants to the top of the dead surface or ladder fuels, whichever is  
2 taller.

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

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

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

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

15 ~~(12) This subsection will expire five (5) years after February 19, 2019.~~

16 \*\*\*\*\*

17 NOTE: Authority cited: Sections 4551, 4553, 4584 and 4584.1, Public Resources Code.  
18 Reference: Sections 4290, 4291, 4516, 4527, 4584, 4584.1 and 4597, Public  
19 Resources Code; and EPIC v. California Department of Forestry and Fire Protection  
20 and Board of Forestry (1996) 43 Cal. App.4th 1011.

21  
22 **§ 1038.3. Forest Fire Prevention Exemption.**

23 Persons who are engaged in the cutting or removal of trees, limited to those trees that  
24 eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree  
25 crowns for the purpose of reducing flammable materials to reduce fire spread, duration

1 and intensity, fuel ignitability, or ignition of tree crowns are exempt from the plan  
2 preparation and submission requirements (PRC § 4581) and from the completion report  
3 and Stocking report requirements (PRC §§ 4585 and 4587) of the FPA. Timber  
4 Operations conducted under any notice of exemption described herein shall be limited  
5 to one (1) year from the date of receipt by the Director, and shall comply with all  
6 operational provisions of the FPA and District Forest Practices Rules applicable to  
7 "Timber Harvest Plan", "THP", and "Plan" definitions per 14 CCR § 895.1. This  
8 exemption shall be known as the Forest Fire Prevention Exemption. Preparation and  
9 submittal of notices of exemption under this section, or Timber Operations conducted  
10 thereunder, shall comply with the following conditions, exceptions, or requirements as  
11 described.

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

14 (b) This exemption shall only be used on Timberlands that are within the most recent  
15 version of the Department's Fire Hazard Severity Zone Map, which can be found on the  
16 Department's website: [https://osfm.fire.ca.gov/divisions/community-wildfire-  
17 preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-  
18 zones-maps/](https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/), that shows the exemption will occur in areas determined to be moderate,  
19 high, or very high fire threat areas.

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

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

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

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

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

10 (e) The construction or reconstruction of roads, other than Temporary Roads, is  
11 prohibited. The construction or reconstruction of Temporary Roads on slopes greater  
12 than thirty (30) percent is prohibited. The construction or reconstruction of Temporary  
13 Roads on slopes of thirty (30) percent or less shall be allowed if all of the following  
14 conditions are met:

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

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

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

18 (4) Construction or re-construction of Temporary Roads, Landings or

19 Watercourse crossings shall not occur during the Winter Period.

20 (A) Roads and Landings used for log hauling or other heavy equipment uses  
21 during the Winter Period shall occur on a Stable Operating Surface and, if  
22 necessary, be surfaced with rock to a depth and quantity sufficient to maintain a  
23 Stable Operating Surface. No operation shall be permitted on roads that are not  
24 subject to Hydrological Disconnection, or which exhibit Saturated Soil Conditions.  
25

1 (B) Timber Operations during the Winter Period shall comply with the applicable  
2 Rule sections under 14 CCR § 914.7 [934.7, 954.7](c)(1)&(2).

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

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

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

11 (A) For exemptions that are less than forty (40) acres, all Temporary Roads  
12 constructed and/or reconstructed shall not exceed a cumulative length of three-  
13 hundred (300) feet.

14 (B) For exemptions between forty (40) and eighty (80) acres, this standard shall  
15 not exceed three-hundred (300) to six-hundred (600) feet, as determined on a  
16 pro rata basis by total acreage affected by the exemption.

17 (C) For exemptions over eighty (80) acres, this standard shall not exceed six-  
18 hundred (600) feet.

19 (D) Temporary Roads constructed or reconstructed under this section shall not  
20 be connected to other Temporary Roads constructed under previous or  
21 subsequent exemptions filed pursuant to this section.

22 (E) Prior to completion of Timber Operations, all Temporary Roads constructed  
23 or reconstructed under this section shall undergo Abandonment in a manner  
24 which uses protective measures that will effectively remove them from the  
25 Permanent Road Network, as defined in 14 CCR § 895.1.

1 (F) No tree larger than thirty-six (36) inches in diameter at stump height,  
2 measured eight (8) inches above ground level, shall be removed for the purposes  
3 of Temporary Road construction or reconstruction as it applies to this exemption.  
4 Trees between thirty (30) and thirty-six (36) inches in diameter at stump height,  
5 measured eight (8) inches above ground level, may be removed for the purposes  
6 of Temporary Road construction or reconstruction when no other feasible option  
7 exists for Temporary Road construction activities.

8 (f) The RPF responsible for submission of the notice of exemption shall designate  
9 Temporary Road locations, Landing locations, Tractor Road crossings of Class III  
10 Watercourses, Unstable Areas, or Connected Headwall Swales on the ground prior to  
11 submission of the notice of exemption.

12 (g) The QMD of trees greater than eight (8) inches dbh in the Harvest Area shall be  
13 increased in the post-harvest stand. The submitted notice of exemption shall report the  
14 expected post-harvest increase in QMD.

15 (h) Except within constructed or reconstructed Temporary Road prisms, only trees less  
16 than thirty (30) inches in stump diameter, measured eight (8) inches above ground level,  
17 may be removed.

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

1 (j) If the preharvest crown canopy of Dominants and Codominants is occupied by trees  
2 less than fourteen (14) inches in dbh, a minimum of one hundred (100) trees over four  
3 inches in dbh shall be retained per acre for Site I, II, and III lands, and a minimum of  
4 seventy-five (75) trees over four inches in dbh shall be retained per acre for Site IV and  
5 V lands.

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

8 ~~(1) Minimum post treatment Canopy closure shall comply with the standards of~~  
9 ~~14 CCR § 1052.4(d)(3)(A)~~

10 Minimum post treatment Canopy cover of Dominant and Codominant trees shall  
11 be 30% for east side pine forest types and 40% for coastal redwood forest, Douglas-fir  
12 forest, mixed conifer forest and all other forest types.

13 (2) Post treatment stand shall contain no more than two-hundred (200) trees per  
14 acre over three (3) inches in dbh.

15 (3) Vertical spacing shall be achieved by treating dead fuels, excluding dead  
16 branches on the trees retained for Stocking, to a minimum clearance distance of eight  
17 (8) feet measured from the base of the live crown of the post-harvest Dominants and  
18 Codominants to the top of the dead surface or ladder fuels, whichever is taller.

19 (l) Helicopter Yarding shall be prohibited.

20 (m) The RPF shall comply with 14 CCR § 1035.2, relating to interaction between the  
21 LTO and the RPF.

22 (n) All Timber Operations conducted in the Lake Tahoe Region, if applicable, must have  
23 a valid Tahoe Basin Tree Removal Permit (as defined by the TRPA) or shall be  
24 conducted under a valid TRPA Memorandum of Understanding, when such a permit is  
25 required by TRPA.

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

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

10 (q) If a notice of exemption has been accepted by the Director and will use pesticides or  
11 herbicides on the Harvest Area within one (1) calendar year of the date of acceptance,  
12 the timberland owner shall notify the appropriate regional water quality control board  
13 within ten (10) days prior to application of pesticides or herbicides.

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

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

21 (t) The notice of exemption shall be submitted to the Director, on a form provided by the  
22 Department, prior to the commencement of Timber Operations. The form shall contain  
23 the following information:

24 (1) Name(s), address, and telephone number(s) of the Timber Owner(s),  
25 timberland owner(s), and Timber Operator;



1 (2) Name, address, and telephone number and license number of the RPF  
2 preparing and submitting the notice of exemption;

3 (3) Legal description of the location of the Timber Operations;

4 (4) The tentative date of commencement of Timber Operations;

5 (5) A signature of the landowner certifying that they are the landowner and have  
6 read and understand the information contained within the notice of exemption;

7 (6) A description of preharvest stand structure; and

8 (7) An estimate of pre and post-harvest QMD and certification by the RPF that, in  
9 their professional judgment, post-harvest slash treatment and stand conditions will lead  
10 to more moderate fire behavior.

11 (u) The RPF shall, upon submission of the notice of exemption:

12 (1) Certify that the level of residual Stocking shall be consistent with maximum  
13 sustained production of high quality timber products. The residual stand shall consist  
14 primarily of healthy and vigorous Dominants and Codominants from the preharvest  
15 stand. Trees retained to meet the basal area stocking standards shall be selected from  
16 the largest trees available on the project area prior to harvest. In no case shall Stocking  
17 be reduced below the standards found within 14 CCR § 913.3 [933.3, 953.3] (a).

18 (2) Affirm that the construction or reconstruction of each Temporary Road is  
19 necessary to provide access to Harvest Areas when no other feasible alternative exists.  
20 The notice shall include the total number of and cumulative length of Temporary Roads  
21 being constructed and/or reconstructed.

22 (3) Provide the selection criteria for the trees to be removed or the trees to be  
23 retained. In the development of these criteria, and the fuel reduction prescriptions, the  
24 RPF should consider retaining habitat elements, where feasible, including, but not  
25 limited to, ground level cover necessary for the long-term management of local wildlife

1 populations. The selection criteria shall specify how the trees to be removed, or how the  
2 trees to be retained, will be designated.

3 (v) The Director shall notify the submitter of the date of the Director's receipt of the  
4 notice of exemption. Timber Operations pursuant to the notice of exemption may not  
5 commence for ten (10) working days from the date of the Director's receipt of the notice  
6 of exemption unless the delay is waived by the Director. If the notice of exemption is not  
7 complete and accurate, the Director shall notify the submitter within five (5) working  
8 days from the date of the Director's receipt, and the Timber Operations may not  
9 commence. The Director shall determine whether the notice of exemption is complete  
10 and accurate, and if so, shall send a copy of a notice of acceptance to the submitter;  
11 provided, however, if the Director does not act within ten (10) working days of receipt of  
12 the notice of exemption, Timber Operations may commence. Timber Operations may  
13 not be conducted without a copy of the Director's notice of acceptance of the notice of  
14 exemption at the operating site, except where the Director has failed to act within the  
15 ten (10) working-day review period.

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

19 (w) Before beginning Timber Operations, the RPF responsible for submittal of the notice  
20 of exemption shall notify the Department, the appropriate RWQCB, the CDFW, and the  
21 CGS of the actual commencement date of operations. The notification, by telephone,  
22 mail, or email, shall be directed to the appropriate agency personnel and contact  
23 information for the appropriate agency personnel shall be provided by the Department  
24 on the notice of exemption form. If the notification is provided by mail, Timber  
25 Operations may not commence for three (3) days after the postmark date of notification.

1 (x) This section will expire on January 1, 2026.

2  
3 NOTE: Authority cited: Sections 4551, 4553 and 4584, Public Resources Code.

4 Reference: Sections 4527, 4527.5, 4584 and 4584.2, Public Resources Code.

5  
6 **§ 1052.4. Emergency Notice for Fuel Hazard Reduction.**

7 The RPF preparing the Notice of Emergency Timber Operations for Fuel Hazard  
8 Reduction shall describe the nature of the Emergency and the need for immediate  
9 cutting in sufficient detail so that the reason for the Emergency is clear. Emergency  
10 Timber Operations, under the presumed Emergency standard of 14 CCR § 1052.1, may  
11 be commenced and conducted when in conformance with the following:

12 (a) RPF develops and documents the vegetative treatments necessary to meet the  
13 goals of 14 CCR § 1052.1(a)(5), and ensures postharvest conditions are in accordance  
14 with all subsections in 14 CCR § 1052.4. Such documentation shall include the  
15 following:

16 (1) A description of the preharvest stand structure, statement of the postharvest  
17 stand Stocking levels, and description of postharvest stand structure.

18 (2) A description of the criteria to designate trees to be harvested or trees to be  
19 retained, including those trees harvested pursuant to 14 CCR § 1052.4(d)(1)(A) and  
20 (d)(2).

21 (3) All trees that are harvested or all trees that are retained shall be marked or  
22 sample marked by, or under the supervision of, an RPF before felling operations begin.  
23 When trees are sample marked, the designation prescription for unmarked areas shall  
24 be in writing and the sample mark area shall include at least 10% of the Harvest Area to  
25

1 a maximum of twenty (20) acres per stand type which is representative of the range of  
2 conditions present in the Harvest Area.

3 (b) The conditions of 14 CCR §§ 1038.1(c)(5)-(14) and 1038.3(p) are applied and, for  
4 operations in the Lake Tahoe Region, 14 CCR § 1038.1(b) is applied.

5 (c) Geographic area: operations are permitted:

6 (1) Within one-quarter (  $\frac{1}{4}$  ) mile from Approved and Legally Permitted Structures  
7 that comply with the Building Standards Code (legal structure). Such legal structures  
8 shall be within or adjacent to a community listed in the "List of Communities at Risk" (As  
9 published April 13, 2019 and hereby incorporated by reference) and have densities  
10 greater than one (1) structure per twenty (20) acres; or

11 (2) Within five hundred (500) feet of:

12 (A) A legal structure outside the area defined in 14 CCR § 1052.4(c)(1); or

13 (B) Either side of a federal or Public Road; or

14 (C) Either side of a private road providing access to legal structures; or

15 (D) Either side of haul roads suitable for evacuation or fire suppression with the  
16 written concurrence of a Public Fire Agency and determined by the Director to be  
17 consistent with the purpose of the Act and Rules; or

18 (E) Either side of ridges suitable for fire suppression with the written concurrence  
19 of a Public Fire Agency and determined by the Director to be consistent with the  
20 purpose of the Act and Rules; or

21 (F) Infrastructure including electrical distribution and transmission facilities, water  
22 reservoirs or other conveyances, wastewater facilities or conveyances,  
23 communication and data transmission and distribution facilities, or other assets  
24 or infrastructure at risk with the written concurrence of a Public Fire Agency and  
25

1 determined by the Director to be consistent with the purpose of the Act and  
2 Rules.

3 (d) Vegetation Treatments: Tree removal shall target Codominant and Understory trees.  
4 The residual stand shall consist primarily of well-distributed, healthy and vigorous  
5 Dominant and Codominant trees from the preharvest stand.

6 (1) The following restrictions exist related to the diameter of trees that may be  
7 harvested pursuant to this section:

8 (A) Only trees less than thirty (30) inches in stump diameter, measured at eight  
9 (8) inches above ground level, may be removed except under the following  
10 condition: if the goal of fuel reduction cannot be achieved by removing trees less  
11 than thirty (30) inches in stump diameter, measured at eight (8) inches above  
12 ground level; trees less than thirty-six (36) inches in stump diameter, measured  
13 at eight (8) inches above ground level, may be removed if that removal is  
14 necessary to meet the fuel objectives stated in 14 CCR § 1052.1(a)(5).

15 (B) No trees of the genus Quercus that are greater than twenty-six (26) inches  
16 outside bark stump diameter, measured at eight (8) inches above ground level,  
17 may be removed.

18 (2) Notwithstanding 14 CCR § 1052.4(d)(1)(A) and (B), dead or Dying trees, of  
19 any size, may be removed according to the standards of 14 CCR § 919.1 [939.1, 959.1],  
20 as applicable.

21 ~~(3)(A) The following canopy retention requirements are applicable to Timber~~  
22 ~~Operations conducted pursuant to 14 CCR §§ 1038(f) and 1038.3: Minimum post~~  
23 ~~treatment Canopy closure of Dominant and Codominant trees shall be 40% for~~  
24 ~~east side pine forest types; 50% for coastal redwood and Douglas-fir forest types~~  
25 ~~in or adjacent to communities and legal structures referenced in 14 CCR §~~

1 1052.4(c)(1) and (c)(2)(A); 60% for coastal redwood and Douglas-fir forest types  
2 outside of communities and legal structures referenced in 14 CCR § 1052.4(c)(1)  
3 and (c)(2)(A); and 50% for mixed conifer and all other forest types.

4 (B) The following canopy retention requirements are applicable to emergency  
5 Timber Operations conducted pursuant to 14 CCR § 1052.4:

6 4A. Except for the conditions described within 2. below, minimum post  
7 treatment Canopy closure of Dominant and Codominant trees shall be 30% for  
8 east side pine forest types; 40% for coastal redwood and Douglas-fir forest; and  
9 40% for mixed conifer and all other forest types.

10 2B. When the average diameter of residual trees within the Harvest Area  
11 is less than sixteen (16) inches d.b.h. and the pre-treatment stand conditions  
12 described within 14 CCR § 1052.4(a)(1) are representative of homogenous forest  
13 stand conditions typical of plantations (such as homogeneity in: age distribution,  
14 d.b.h., height, or species composition), either of the retention standards set forth  
15 in a. or b. below must be achieved.

16 1a. Minimum post treatment Canopy closure of Dominant and Codominant  
17 trees shall be 30% for east side pine forest types; 40% for coastal  
18 redwood and Douglas-fir forest; and 40% for mixed conifer and all other  
19 forest types.

20 2b. A minimum of sixty-five (65) trees per acre over four (4) inches d.b.h.  
21 shall be retained.

22 (4)(A) Within the Harvest Area, Surface Fuels, Ladder Fuels, Slash, Woody  
23 Debris, and dead brush that will promote the spread of wildfire shall be treated as  
24 follows:  
25

1           1. Those fuels described within (A) above, excluding residual stand  
2 Dominant and Codominant trees and any dead branches on those trees, shall be  
3 spaced to achieve vertical clearance distance of eight (8) feet or three (3) times  
4 the height of the postharvest fuels and vegetation, excluding Dominant and  
5 Codominant trees, whichever is the greater distance, measured from the base of  
6 the live crown of the postharvest Dominant and Codominant trees to the top of  
7 the Surface or Ladder Fuels or vegetation, whichever is taller.

8           2. Additional fuel treatment standards are as follows:

9           a. Within one hundred-fifty (150) feet of those structures identified within  
10 14 CCR § 1052.4(c)(1) and (c)(2)(A), all Surface Fuels, Slash, Woody  
11 Debris, and dead brush that will promote the spread of wildfire shall be  
12 chipped, burned, or removed within forty-five (45) days from the start of  
13 Timber Operations.

14           b. Except for those areas described in provision a. above, all Surface  
15 Fuels, Slash, Woody Debris, and dead brush that will promote the spread  
16 of wildfire, within the Harvest Area, shall be treated to an average depth of  
17 less than nine (9) inches.

18 (B) Postharvest compliance shall be determined by the combination of physical  
19 measurements and observations. Postharvest compliance shall be met on at  
20 least 80% of the Project area as calculated excluding WLPZs and other wildlife  
21 protection requirements developed in accordance with 14 CCR § 1052.4(g).

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

24 (5) Fuel treatments shall include chipping, removal or other methods necessary  
25 to achieve the fuel hazard reduction standards in this section, and, notwithstanding the

1 requirements of 14 CCR § 1052.4(d)(4)(A)2.a., shall be accomplished within one (1)  
2 year from the date the Emergency Notice is accepted by the Director, except for burning  
3 operations, which instead shall be completed within two (2) years from the date the  
4 Director accepts the notice.

5 (e) Stocking shall meet the resource conservation standards for minimum Stocking  
6 within 14 CCR § 912.7 [932.7, 952.7] (a)-(c), as applicable, immediately upon  
7 completion of Timber Operations. Because the lands treated pursuant to 14 CCR §  
8 1052.4 are designated as defensible space or Fuelbreak areas, the wood production  
9 potential of these lands is compatible with the lowest Site Classifications and they shall  
10 be considered site IV Timberland for Stocking purposes.

11 (f) The resource conservation standards of the Rules may be met with Group A and/or  
12 Group B commercial species. The percentage of the stocking requirement met with  
13 Group A species shall be no less than the percentage of the stand basal area they  
14 comprised before harvesting. The following information shall be supplied by the RPF  
15 preparing the Notice and included in submission of the Notice:

16 (1) How using Group B species to meet the resource conservation standards will  
17 meet the intent of 14 CCR § 1052.4. The discussion shall include at least:

18 (A) The management objectives of the post-harvest stand.

19 (B) A description of the current stand, including species composition and current  
20 stocking levels within the area of Group B species. The percentage may be  
21 measured using point-count, basal area, or stocked plots.

22 (C) The percentage of the post-harvest stocking to be met with Group B species.  
23 Post-harvest percentages will be determined on the basis of stocked plots. Only  
24 the methods provided for in 14 CCR §§ 1070-1075 shall be used in determining if  
25 the standards of PRC § 4561 have been met.



1 (D) A description of what will constitute a countable tree, as defined by PRC §  
2 4528 for Group B species, and how such a tree will meet the management  
3 objectives of the post-harvest stand.

4 (g) As part of the preharvest Project design, the RPF shall incorporate habitat  
5 requirements for fish, wildlife and plant Species in accordance with 14 CCR §§ 898.2,  
6 916.9 [936.9, 956.9] and 919 [939, 959] et seq. Such evaluations shall include use of  
7 the California Natural Diversity Database (as referenced by the CDFW,  
8 <https://www.wildlife.ca.gov/Data/CNDDDB>) and local knowledge of the Planning  
9 Watershed. Consultation with CDFW personnel is recommended. Examples of habitat  
10 requirements to be incorporated into the Project include retention of large Woody Debris  
11 and Snags congruent with Emergency condition goals, and vegetative screening for  
12 wildlife cover and visual aesthetics.

13 (h) Before commencement of Timber Operations by each LTO directly responsible for  
14 Timber Operations identified on the Notice, the RPF who prepared the Notice, or their  
15 Supervised Designee, shall meet with either the LTO or the LTO's representative. The  
16 purpose of the meeting shall be for the RPF to familiarize the LTO with the Notice, the  
17 Harvest Area described within the Notice, and specific applicable requirements of the  
18 Notice. The meeting shall be on-site if requested by either the RPF or LTO. An on-site  
19 meeting is required between the RPF or Supervised Designee familiar with on-site  
20 conditions and the LTO to discuss protection of any archaeological or historical sites  
21 requiring protection, if any such sites exist within the site survey area, pursuant to 14  
22 CCR § 929.2 [949.2, 969.2] (b).

1 NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources  
2 Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 21001(f) and  
3 21080(b)(4), Public Resources Code.

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