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2 **Board of Forestry and Fire Protection**

3 **“1038(c)(6) Expiration Amendment”**

4 **Title 14, California Code of Regulations**

5 **Division 1.5, Chapter 4, Subchapter 7, Article 2**

6 **Amend: § 1038**

7
8 **§ 1038. Exemptions.**

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

19 (a) Harvesting Christmas trees.

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

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

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

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

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

16 (4) In addition to the surface fuel treatment described in 14 CCR § 1038(c)(3), the
17 Harvest Area must meet the vegetation treatment standards in PRC § 4584(i)(1) to
18 (2)(A) illustrated in Board Technical Rule Addendum No.4 within one (1) year from the
19 receipt of issuance of notice of acceptance. This paragraph does not apply to 14 CCR §
20 1038(c)(6).

21 (5) Timber Operations conducted under this subsection shall conform to the applicable
22 city or county general plans, city or county implementing ordinances, and city or county

1 zoning ordinances within which the notice of exemption is located. The LTO, timberland
2 owner, or if applicable the RPF, shall certify that the city or county has been contacted
3 and the notice of exemption conforms with all city or county regulatory requirements.

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

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

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

14 (C) All Slash shall be lopped, removed, chipped, piled and burned, or otherwise treated
15 to achieve a maximum post-harvest depth of eighteen (18) inches above the ground
16 within forty-five (45) days from the start of Timber Operations except for the burning of
17 piles, which shall be accomplished not later than April 1 of the year following their
18 creation, or for piles created on or after September 1, not later than April 1 of the
19 second year following creation. Treatment of surface fuels by burning shall be exempt
20 from the one-year time limitations on Timber Operations described under 14 CCR §
21 1038.

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

4 (E) 14 CCR § 1038(c)(6) shall expire pursuant to PRC 4584(m)(3)~~on January 1, 2022.~~

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6 [NO ADDITIONAL CHANGES ARE PROPOSED TO THIS SECTION]

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8 Note: Authority cited: Sections 4551, 4553, 4584 and 4584.1, Public Resources Code.

9 Reference: Sections 4290, 4291, 4516, 4527, 4584, 4584.1 and 4597, Public Resources Code;

10 and *EPIC v. California Department of Forestry and Fire Protection and Board of Forestry* (1996)

11 43 Cal. App.4th 1011.