

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

2 **Pursuant to SB 901**

3 **January 9, 2019**

4 **§ 1038. Exemption.**

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

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

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

22
23 (a) Harvesting Christmas trees.
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1 (b) Harvesting dead trees, dying Dying Trees, or diseased-trees Diseased Trees of any size, fuelwood or
2 split products in amounts less than ten (10) percent of the average volume per acre, or the removal of
3 Slash and Woody Debris that is not located within a WLPZ, when the following conditions are met:

- 4 ~~(1) No tractor or heavy equipment operations on slopes greater than 50 percent.~~
- 5 ~~(2) No construction of new tractor roads on slopes greater than 40 percent.~~
- 6 ~~(3) Timber operations within any Special Treatment Area, as defined in 14 CCR 895.1, shall~~
7 ~~comply with the rules associated with that Special Treatment Area.~~
- 8 ~~(4) No tractor or heavy equipment operations on known slides or unstable areas.~~
- 9 ~~(5) No new road construction or reconstruction, as defined in 14 CCR 895.1.~~
- 10 ~~(6) No heavy equipment operations within the standard width of a watercourse or lake protection~~
11 ~~zone, as defined in 14 CCR 916.4 [936.4, 956.4] (b), except for maintenance of roads and~~
12 ~~drainage facilities or structures.~~
- 13 ~~(7) No known sites of rare, threatened or endangered plants or animals will be disturbed,~~
14 ~~threatened or damaged.~~
- 15 ~~(8) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR~~
16 ~~895.1.~~
- 17 ~~(9) No timber harvesting within the standard width of a watercourse or lake protection zone, as~~
18 ~~defined in 14 CCR 916.4 [936.4, 956.4] (b), except sanitation salvage harvesting, as defined in~~
19 ~~14 CCR 913.3 [933.3, 953.3], where immediately after completion of operations, the area shall~~
20 ~~meet the stocking standards of 14 CCR 912.7 [932.7, 952.7] (b)(2), or, except the removal of~~
21 ~~dead or dying trees where consistent with 14 CCR 916.4 [936.4, 956.4] (b). Trees to be~~
22 ~~harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.~~
- 23 ~~(10) No timber operations on any site that satisfies the criteria listed in 895.1 for a significant~~
24 ~~archaeological or historical site. Information on some of these sites may be available from the~~

1 Information Centers of the California Historical Resources Information System within the
2 Department of Parks and Recreation.

3 (c) The cutting or removal of trees in compliance with PRC §§ 4290 and 4291, which eliminates the
4 vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of
5 reducing flammable materials and maintaining a fuelbreak to reduce fire spread, duration and intensity.

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

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

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

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

18 (4) In addition to the slash surface fuel treatment described in 14 CCR § 1038(c)(3), the areas of
19 timber operations Harvest Area must meet the vegetation treatment standards in PRC §
20 4584(i)(1) to (2)(A) illustrated in Technical Rule Addendum No.4 within one (1) year from the
21 receipt of issuance of notice of acceptance. This paragraph does not apply to 14 CCR § 1038
22 (c)(6). The LTO, timberland owner, or if applicable the RPF, shall certify that a notification to the
23 landowner has been provided that states the slash treatment requirements and enforcement
24 procedures under this exemption.

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

Commented [DM1]: Born from 1038.2(e)(3).

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

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

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

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

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

18 (C) All logging slash Slash created by the timber operations shall be lopped, removed,
19 chipped, piled and burned, or otherwise treated to achieve a maximum post-harvest
20 depth of eighteen (18) inches above the ground within forty-five (45) days from the start
21 of timber operations Timber Operations except for the burning of piles, which shall be
22 accomplished not later than April 1 of the year following their creation, or for piles
23 created on or after September 1, not later than April 1 of the second year following
24 creation. ~~Treatment of surface fuels by burning shall be exempt from the one-year time~~
25 ~~limitations described under 14 CCR § 1038.1.~~

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

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

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

8 (G) The Department shall evaluate the effects of the exemption allowed under 14 CCR §
9 1038(c)(6) including frequency and state-wide distribution of use, acres treated,
10 compliance, professional judgment regarding post-treatment stand conditions observed
11 relative to moderating fire behavior, and actual performance in the event of a wildfire.
12 The Department shall, annually, report its findings, based on this evaluation, to the
13 Board.

14 (d) The limit of 10 percent of the volume per acre in subsection (b) above does not apply when
15 harvesting Harvesting dead, dying or diseased trees, fuelwood, or split products in response to drought
16 related stress or dead trees which are unmerchantable as sawlog-size timber from and located upon
17 substantially damaged timberlands Substantially Damaged Timberland, as defined in 14 CCR 895-1,
18 and the following conditions are met

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

20 (2) The landowner shall notify the Director of the completion of timber operations within thirty
21 (30) days of their cessation.

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

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

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

3 (A) Trees that are dead, or,

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

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

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

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

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

23 ~~(1) Tree removal on high erosion hazard lands (Bailey's Land Capability Districts 1a, 1c, or 2 per~~
24 ~~Land Capability Classification of the Lake Tahoe Basin, California-Nevada: A Guide for Planning~~
25 ~~by R.G. Bailey, USDA Forest Service, 1974) shall only be conducted using the following~~

1 methods: helicopter, over-snow where no soil disturbance occurs, hand-carry, and use of
2 existing roads.

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

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

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

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

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

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

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

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

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

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

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

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

18 (11) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR §
19 895.1.

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

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

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

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

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

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

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

14 (1) the tree is not critical for the maintenance of a Late Successional Stand and
15 (2) an RPF attaches to the exemption an explanation and justification for the removal based on
16 the RPF's finding that one or more of the criteria or conditions listed under subsection (A), (B), or
17 (C) are met. The requirements of (h)(2) need not be met if an approved management document,
18 including but not limited to a HCP, SYP, NTMP, WFMP, or PTEIR, addresses large old tree
19 retention for the area in which the large old tree(s) are proposed for removal and the removal is
20 in compliance with the retention standards of that document.

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

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

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

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

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

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

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

12 (4) The RPF preparing the Notice of Exemption shall, upon submission of the Notice of
13 Exemption, provide a map of the area of timber operations that complies with 14 CCR §
14 4034(x)(1), (3), (4), (7), (8), (9), (10), (11), (12) and (14). This map shall be submitted in place of
15 the map required by 14 CCR § 1038.2(d).

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

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

25 [Coast]:

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

[Northern, Southern]:

1. On Site I mixed conifer lands at least 125 sq. ft. per acre of basal area shall be left, and on Site I land where greater than 50% of the basal area is pine, at least 100 sq. ft. per acre of basal area shall be left.
2. On Site II mixed conifer lands at least 100 sq. ft. per acre of basal area shall be left, and on Site II lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.
3. On Site III mixed conifer lands at least 75 sq. ft. per acre of basal area shall be left, and on Site III lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.
4. On Site IV and V mixed conifer lands, at least 50 sq. ft. per acre of basal area shall be left, and on Site IV and V lands where greater than 50% of the basal area is pine at least 50 sq. ft. per acre of basal area shall be left.

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

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

1 trees to be retained, will be designated. All trees to be harvested or all trees to be retained shall
2 be marked or sample marked by, or under the supervision of, an RPF prior to felling operations.
3 Sample marking shall be limited to homogeneous forest stand conditions typical of plantations.
4 When trees are sample marked, the designation prescription for unmarked areas shall be in
5 writing and the sample mark area shall include at least 10% of the harvest area to a maximum of
6 20 acres per stand type which is representative of the range of conditions present in the area.

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

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

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

24 (9) Post-harvest stand conditions shall not violate the following canopy closure requirements:
25

1 (A) Minimum post treatment canopy closure of dominant and codominant trees shall be
2 40 percent for east side pine forest types;

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

10 (C) Minimum post treatment canopy closure of dominant and codominant trees shall be
11 50 percent for coastal redwood and Douglas fir forest types within 500 feet of a legal
12 structures outside the area referenced in 14 CCR § 1038(i)(9)(B);

13 (D) Minimum post treatment canopy closure of dominant and codominant trees shall be
14 60 percent for coastal redwood and Douglas fir forest types outside areas referenced in
15 14 CCR § 1038 (i)(9)(B) and (C);

16 (E) Minimum post treatment canopy closure of dominant and codominant trees shall be
17 50 percent for mixed conifer and all other forest types.

18 (10)

19 (A) This subsection applies to areas described in 14 CCR § 1038(i)(9)(A). Surface and
20 ladder fuels in the harvest area, including logging slash and debris, brush, small trees,
21 and deadwood, that could promote the spread of wildfire, shall be treated to achieve
22 standards for vertical spacing between fuels, horizontal spacing between fuels,
23 maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as
24 follows:
25

1 1. Ladder and surface fuels, excluding residual stand dominant and codominant
2 trees, shall be spaced to achieve a vertical clearance distance of eight feet or
3 three times the height of the post harvest fuels, whichever is the greater
4 distance, measured from the base of the live crown of the post harvest dominant
5 and codominant trees to the top of the ladder or surface fuels, whichever is
6 taller.

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

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

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

20 (B) This subsection applies to all other areas outside those described in 14 CCR §
21 1038(i)(8)(A).

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

24 2. Vertical spacing shall be achieved by treating dead fuels, excluding dead
25 branches on the trees retained for stocking, to a minimum clearance distance of

1 8 feet measured from the base of the live crown of the post-harvest dominant
2 and codominant trees to the top of the dead surface or ladder fuels, whichever
3 is taller.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 3. On Site III mixed conifer lands, at least 75 sq. ft. per acre of basal area shall
8 be left, and on Site III 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 4. On Site IV and V mixed conifer lands, at least 50 sq. ft. per acre of basal area
11 shall be left, and on Site IV and V lands where greater than 50% of the basal
12 area is pine, at least 50 sq. ft. per acre of basal area shall be left.

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

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

17 (6) The RPF shall, upon submission of the Notice of Exemption, provide the selection criteria for
18 the trees to be removed or the trees to be retained. In the development of these criteria, and the
19 fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible,
20 including, but not limited to, ground level cover necessary for the long-term management of local
21 wildlife populations. The selection criteria shall specify how the trees to be removed, or how the
22 trees to be retained, will be designated. All trees to be harvested or all trees to be retained shall
23 be marked or sample marked by, or under the supervision of, an RPF prior to felling operations.
24 Sample marking shall be limited to homogeneous forest stand conditions typical of plantations.
25 When trees are sample marked, the designated prescription for unmarked areas shall be in

1 writing and the sample mark area shall include at least 10% of the harvest area to a maximum of
2 20 acres per stand type which is representative of the range of conditions present in the area.

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

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

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

15 (A) Minimum post treatment canopy closure of dominant and codominant trees shall be
16 40 percent for east side pine forest types;

17 (B) Minimum post treatment canopy closure of dominant and codominant trees shall be
18 50 percent for coastal redwood and Douglas fir forest types within 1/4 mile from
19 approved and legally permitted structures that comply with the California Building Code
20 (legal structure). Such legal structures shall be within or adjacent to a community listed
21 in the "California Fire Alliance List of Communities at Risk" (copyright date 2003) and
22 have densities greater than 1 structure per 20 acres;

23 (C) Minimum post treatment canopy closure of dominant and codominant trees shall be
24 50 percent for coastal redwood and Douglas fir forest types within 500 feet of legal
25 structures outside the area referenced in 14 CCR § 1038(j)(9)(B);

1 (D) Minimum post treatment canopy closure of dominant and codominant trees shall be
2 60 percent for coastal redwood and Douglas fir forest types outside areas referenced in
3 14 CCR § 1038(j)(9)(B) and (C);

4 (E) Minimum post treatment canopy closure of dominant and codominant trees shall be
5 50 percent for mixed conifer and all other forest types.

6
7 (10)

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

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

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

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

18 (E) The requirements of this subsection shall not supersede the requirements of PRC §
19 4291.

20 (11) Treatments for fuels shall include chipping, removing, piling, burning or other methods
21 necessary to achieve the standards. Treatments for any portion of the exemption area where
22 timber operations have occurred, except for burning operations, shall be done within one
23 hundred and twenty (120) days from the start of timber operations on that portion of the
24 exemption area. Burning operations shall be completed in conformance with 14 CCR § 917.2(a)
25

1 ~~[937.2(a), 957.2(a)]. Treatment of surface fuels by burning shall be exempt from the one year~~
2 ~~time limitations described under 14 CCR § 1038.1.~~

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

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

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

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

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

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

22 ~~(18) 14 CCR § 1038(j) shall expire on January 1, 2021.~~

23 ~~(k) Harvesting dead or dying trees of any size, fuelwood or split products, in response to drought related~~
24 ~~stress. The provisions of this exemption supersede the provisions of any other exemptions that are in the~~
25

1 same Harvest Area footprint. In addition to compliance with 14 CCR § 1038.1, and the limitations listed
2 in 1038(b)(1)-(10), the following apply:

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

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

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

14 (A) Trees that are dead, or,

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

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

- 21 1. Trees are designated, by an RPF or Supervised Designee, with a stump
22 mark, as likely to die due to drought related stress within one year, or,
 - 23 2. Trees marked in accordance with 14 CCR § 1038(b)(9), or,
 - 24 3. Trees marked by an RPF in accordance 14 CCR § 1038(h).
- 25

1 (4) Slash shall be Lopped for Fire Hazard Reduction, pursuant to the definition in 14 CCR §
2 895.1. Lopping for Fire Hazard Reduction means severing and spreading slash so that no part of
3 it generally remains more than 30 inches above the ground.

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

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

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

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

22 (B) RPF certification that no conditions were identified where operations, conducted in
23 compliance with the rules of the Board, would reasonably result in significant adverse
24 effects.
25

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 (1e) 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) (e) 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 ~~GCR § 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 sStocking sStandard.

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
4 Notwithstanding Slash requirements pursuant to 14 CCR § 1038.1(e)(3), all Slash shall
5 be configured in a manner that minimizes risk of fire related mortality to all retained
6 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) An 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
Commented [DM2]: Need to have a discussion on clarity. Compare to language in Oak Woodland Restoration exemption.

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 sStocking sStandards 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 Areashall 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 explaining how modification of the tree species diversity will benefit forest
6 health and resiliency.

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

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

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

16 ~~(ng) Harvesting dead or Dying Trees of any size to facilitate the removal of hazardous material and the~~
17 ~~reconstruction or construction of Approved and Legally Permitted Structures that were damaged or~~
18 ~~destroyed by wildfire in the Counties of Lake, Siskiyou, Mendocino, Shasta, Trinity, and Napa during~~
19 ~~2018. The provisions of a Notice notice of Exemption exemption submitted pursuant to this subsection~~
20 ~~supersede the provisions of any other Notices notices of Exemption exemption that are submitted in the~~
21 ~~same Harvest Area. In addition to compliance with 14 CCR §§ 1038(b)(1)-(10) and 1038.1 (c)(5) through~~
22 ~~(12) inclusive, the following apply:~~

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

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

Commented [EH3]: Moved to 1038.6

- 1 (A) the requirements of 14 CCR § 1038.2(a)-(c);
- 2 (B) the total acreage of the Harvest Area;
- 3 (C) an enlarged ~~seven and one-half (7½)~~ minute quadrangle map, or its equivalent, that
- 4 is not less than one (1) inch equals ~~one thousand (1,000)~~ feet showing the location of
- 5 the boundaries of the Harvest Area;
- 6 (D) a certification of ownership signed by the timberland owner and;
- 7 (E) the tentative commencement date of Timber Operations.

8 ~~(3) Timber Operations conducted under this subsection shall conform to applicable city or county~~

9 ~~general plans, city or county implementing ordinances, and city or county zoning ordinances~~

10 ~~within which the Harvest Area is located. The Timber Operator or timberland owner shall certify~~

11 ~~that the city or county has been contacted and the Timber Operations conducted under the~~

12 ~~Notice notice of Exemption exemption conforms with all city or county regulatory requirements.~~

13 ~~(4) All Slash and Woody Debris greater than one (1) inch but less than eight (8) inches in~~

14 ~~diameter within one hundred fifty (150) feet of an Approved and Legally Permitted Structure that~~

15 ~~was damaged or destroyed by wildfire shall be removed, chipped or piled and burned.~~

16 ~~(5) All Slash created between one hundred fifty (150) feet and three hundred (300) feet of an~~

17 ~~Approved and Legally Permitted Structure that was damaged or destroyed by wildfire shall be~~

18 ~~treated by Lopping for Fire Hazard Reduction, removed, chipped or piled and burned within~~

19 ~~forty five (45) days from the start of Timber Operations; except for the burning of piles, which~~

20 ~~shall be accomplished not later than April 1 of the year following their creation; or for piles~~

21 ~~created on or after September 1, not later than April 1 of the second year following creation.~~

22 ~~(6) Except where necessary for safety, retain an average for the Harvest Area of not less than~~

23 ~~one (1) Decadent and Deformed Tree of Value to Wildlife, Snag, or Dying Tree per acre that is~~

24 ~~greater than sixteen (16) inches dbh DBH and twenty (20) feet tall. This provision does not apply~~

25 ~~within one hundred fifty (150) feet of Approved and Legally Permitted Structures, roads, fire~~

1 suppression ridges and infrastructure facilities such as transmission lines and towers, or water
2 conveyance and storage facilities.

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

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

16
17 **§ 1038.1. Compliance with Act and Rules.**

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

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

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

22 (3) Before beginning Timber Operations, the Timber Operator shall notify the Department of the
23 actual commencement date of operations. The notification, by telephone, mail, or email, shall be
24 directed to the appropriate CAL FIRE Unit Headquarters, Forest Practice Inspector or other
25

1 designated personnel. If the notification is provided by mail, Timber Operations may not
2 commence until three (3) days after the postmark date of notification.

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

5
6 **§ 1038.1. Additional Exceptions or Requirements**

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

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

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

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

- 21 (1) All Timber Operations conducted in the Lake Tahoe region must have a valid Tahoe
22 Basin Tree Removal Permit, as defined by TRPA, or shall be conducted under a valid
23 TRPA Memorandum of Understanding, which such a permit is required by TRPA.
24 (2) The Department shall provide the appropriate RWQCB, CDFW, and CGS with copies of
25 the submitted notice of exemption.

1 (3) No helicopter yarding shall be allowed.

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

4 **Table 1: Additional Exceptions or Requirements**

5

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

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

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

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

- 1 (A) If a Significant Archaeological or Historical Site is identified by the RPF
2 preparing the notice of exemption within the project boundary, the site may
3 be preserved in place by capping or covering with a layer of soil prior to
4 submission.
- 5 (B) If a site has been preserved in place, the RPF preparing the notice of
6 exemption shall obtain written concurrence from a Department archeologist
7 prior to submission indicating operations will not cause damage to a
8 Significant Archaeological or Historical Site.
- 9 (C) The written concurrence from a Department archeologist shall be submitted
10 with the notice of exemption.

- 11 (4) All Slash created by the Timber Operations shall be lopped, removed, chipped, piled for
12 burning, or otherwise treated, within one (1) year from the date of the Director receiving
13 the notice except for burning. Burning shall be completed within two (2) years from the
14 date of the Director receiving the notice and is exempt from the one (1) year time
15 limitations described under 14 CCR § 1038.1. Slash shall be treated to achieve a
16 maximum post-harvest depth of eighteen (18) inches above the ground.
- 17 (5) No tractor or heavy equipment operations on slopes greater than fifty (50) percent.
18 No construction of new tractor roads on slopes greater than forty (40) percent.
- 19 (6) Timber operations within any Special Treatment Area shall comply with the rules
20 associated with that Special Treatment Area.
- 21 (7) No tractor or heavy equipment operations on known slides or Unstable Areas.
- 22 (8) No new road construction or reconstruction, as defined in 14 CCR § 895.1.
- 23 (9) No heavy equipment operations within the standard width of a WLPZ, as defined in 14
24 CCR § 916.4 [936.4, 956.4] (b), except for maintenance of roads and Drainage Facilities
25 or structures.

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

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

4 (12) No timber harvesting within the standard width of a WLPZ, as defined in 14 CCR §
5 916.4 [936.4, 956.4] (b), except sanitation-salvage harvesting, as defined in 14 CCR §
6 913.3 [933.3, 953.3], where immediately after completion of operations, the area shall
7 meet the Stocking Standards of 14 CCR § 912.7 [932.7, 952.7] (b)(2), or, except the
8 removal of dead or dying trees where consistent with 14 CCR § 916.4 [936.4, 956.4] (b).
9 Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to
10 Timber Operations.

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

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

1 however, if the Director does not act within five (5) working days of receipt of the notice
2 of exemption, Timber Operations may commence.

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

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

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

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

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

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

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

21 **§ 1038.2. Exemption Form.**

22 A Person submitting an exemption under 14 CCR § 1038 shall submit to the Director a notice of
23 proposed Timber Operations, prior to commencement of Timber Operations, on a form provided by the
24 Department. The form shall contain the following information:
25

1 (a) Type of operation to be conducted.

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

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

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

6 (e) The tentative commencement date of timber operations

7 (f) In addition to (a) through (e) above, the following shall be included for exemptions conducted under
8 14 CCR § 1038(c);

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

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

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

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

18 (g) In addition to (a) through (f) above, the following shall be included for exemptions conducted under
19 14 CCR § 1038(c)(6):

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

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

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

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

2 ~~(h) In addition to (a) through (c) above, the following shall be included for exemptions conducted under~~
3 ~~14 CCR § 1038(i) and (j):~~

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

6 ~~(2) A description of the pre-harvest stand structure and a statement of the post-harvest stand~~
7 ~~Stocking levels.~~

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

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

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

15 **§ 1038.2. Mapping Standards for Notices of Exemption.**

16 A submitted notice of exemption shall include an enlarged seven-and-one-half (7½) minute USGS
17 quadrangle map, or its equivalent, that is not less than one (1) inch equals one-thousand (1,000) feet,
18 depicting the information as required in Table 2 below. Additional maps, which may be topographic or
19 planimetric, may be used to provide additional information, to show specific details, and to improve map
20 clarity. The Appurtenant Roads included within the Logging Area pursuant to subsection (b) may be
21 shown on a map which may be planimetric with a scale as small as one-half inch equals one mile. Color
22 coding shall not be used. A legend shall be included indicating the meaning of the symbols used. The
23 submitted notice of exemption shall indicate if more than one Yarding system is to be used and identify
24 the systems (if more than one is used).

Commented [DM4]: Point of Discussion on January 9, 2019.

Table 2: 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, marshes, or Wet Areas and Other Wet Areas other than at road Watercourse crossings.
- (f) Location of water drafting sites.
- (g) Public Roads within one-quarter (¼) mile of the Harvest Area.
- (h) Location of portions of the Harvest Area with an Extreme Erosion Hazard Rating.
- (i) Location of all Watercourses and Lakes with Class I, II, III or IV waters.
- (j) Location of known Unstable Areas or Slide Areas.
- (k) Location of Coastal Commission Special Treatment Areas or any Special Treatment Areas.
- (l) Location of boundaries of timber-site classes needed for determination of Stocking Standards to be applied, down to at least a twenty (20) acre minimum or as specified in District Forest Practice Rules.

1 **Adopt: 14 CCR § 1038.6. Post-Fire Recovery Exemption**

Commented [EH5]: Underline/Strikethrough shown relative to existing language for review purposes only

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

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

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

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

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

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

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

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

19 (3) Timber Operations conducted under this subsection shall conform to applicable city or county
20 general plans, city or county implementing ordinances, and city or county zoning ordinances
21 within which the Harvest Area is located. The Timber Operator or timberland owner shall certify
22 that the city or county has been contacted and the Timber Operations conducted under the
23 ~~Notice~~ notice of Exemption exemption conforms with all city or county regulatory requirements.
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25

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

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

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

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

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

DRAFT

