

1 **Board of Forestry and Fire Protection**

2 **Title 14 California Code of Regulations**

3 **Division 1.5, Chapter 4**

4 **Subchapter 7, Article 2**

5 **§ 1038. Exemption.**

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

16 (a) Harvesting Christmas trees.

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

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

25 (1) Only trees within one-hundred-fifty (150) feet from any point of an Approved
26 and Legally Permitted Structure that complies with the California Building

1 Standards Code may be harvested, except as specified in 14 CCR §
2 1038(c)(6).

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

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

10 (4) In addition to the surface fuel treatment described in 14 CCR § 1038(c)(3),
11 the Harvest Area must meet the vegetation treatment standards in PRC §
12 4584(i)(1) to (2)(A) illustrated in Board Technical Rule Addendum No.4 within
13 one (1) year from the receipt of issuance of notice of acceptance. This
14 paragraph does not apply to 14 CCR § 1038(c)(6).

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

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

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

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

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

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

20 (E) 14 CCR § 1038(c)(6) shall expire on January 1, 2022.

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

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

1 (2) Trees eligible for removal when harvesting in response to drought related
2 stress shall meet 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
5 is dead or fading in color from a normal green to yellow, sorrel, or brown,
6 excluding normal autumn coloration changes, or with evidence of
7 successful bark beetle attacks, through indications of dead cambium and
8 brood development distributed around the circumference of the bole, or;

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

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

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

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

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

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

26 (C) A certification that states:

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

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

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

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

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

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

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

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

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

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

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

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

- 12 (A) Sixty (60) acres or less of timberland within a single Planning
13 Watershed (CALWATER 2.2) within the Coast Forest District, or;
- 14 (B) One-hundred (100) acres or less of Timberland within a single
15 Planning Watershed (CALWATER 2.2) within the Northern or Southern
16 Forest Districts.

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

- 24 (A) On Site I lands, a minimum of one-hundred-fifty (150) square feet of
25 basal area shall be retained within the Coast Forest District, while a

1 minimum of one-hundred (100) square feet of basal area shall be
2 retained within the Northern and Southern Forest Districts.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (12) This subsection will expire five (5) years after February 19, 2019.
20

21 Note: Authority cited: Sections 4551, 4553, 4584 and 4584.1, Public Resources Code.
22 Reference: Sections 4290, 4291, 4516, 4527, 4584, 4584.1 and 4597, Public
23 Resources Code; and EPIC v. California Department of Forestry and Fire Protection
24 and Board of Forestry (1996) 43 Cal. App.4th 1011.
25

26 **§ 1038.1. Additional Exceptions or Requirements.**

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

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

7 (1) The type of exemption.

8 (2) Name(s), address, and telephone number(s) of the Timber Owner(s),
9 timberland owner(s), and Timber Operator.

10 (3) Name, address, and telephone number and license number of the RPF, if
11 applicable.

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

13 (5) The tentative date of commencement of Timber Operations.

14 (6) A signature of the landowner certifying that they are the landowner and
15 have read and understand the information contained within the notice of
16 exemption.

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

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

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

26 (3) No helicopter Yarding shall be allowed.

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

Table 1: Additional Exceptions or Requirements

<i>Allowable Exceptions or Requirements</i>	<i>Notice of Exemption Type(s)</i>
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)(A)	14 CCR § 1038(d)
14 CCR § 1038.1(c)(4)(B)	14 CCR § 1038(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)

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

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

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

(A) If a Significant Archaeological or Historical Site is identified by the RPF preparing the notice of exemption within the project boundary, the

1 site may be preserved in place by capping or covering with a layer of soil
2 prior to submission.

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

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

9 (4) Fuel treatments as follows:

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

16 (B) Slash shall be treated to achieve a maximum post-harvest depth of
17 eighteen (18) inches above the ground on at least eighty (80) percent of
18 the Harvest Area. All Slash shall be lopped, removed, chipped, piled for
19 burning, or otherwise treated, within one (1) year from the date of the
20 Director receiving the notice except for burning. Burning shall be
21 completed within two (2) years from the date of the Director receiving the
22 notice.

23 (5) No tractor or heavy equipment operations on slopes greater than fifty (50)
24 percent. No construction of new tractor roads on slopes greater than forty (40)
25 percent.

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

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

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

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

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

10 (11) No Timber Operations within the Buffer Zone of a Sensitive Species.

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

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

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

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

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

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

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

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

- 25 1. The tree is a hazard to safety or property.

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

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

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

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

14 Reference: Sections 4527, 4527.5, 4584 and 4584.1, Public Resources Code.

15
16 **§ 1038.2. Mapping Standards for Notices of Exemption.**

17 A submitted notice of exemption shall include a seven-and-one-half (7 1/2) minute
18 USGS quadrangle map, or its equivalent, depicting the information as required in
19 Table 1 below. Additional maps, which may be topographic or planimetric, may be
20 used to provide additional information, to show specific details, and to improve map
21 clarity. A larger scale map such as an assessor parcel map showing the location of the
22 Timber Operations shall be included for exemptions conducted under 14 CCR §
23 1038(c). The Appurtenant Roads included within the Logging Area pursuant to
24 subsection (b) below may be shown on a map which may be planimetric with a scale
25 as small as one-half inch equals one mile. Color coding shall not be used. A legend
26 shall be included indicating the meaning of the symbols used. The submitted notice of

1 exemption shall indicate if more than one Yarding system is to be used and identify
 2 the systems (if more than one is used).

3 Table 1: Mapping Requirements

<i>Applicable Mapping Requirements</i>	<i>Notice of Exemption Type(s)</i>
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(14 CCR § 1038(f)

- 4 (a) Boundaries of the Harvest Area.
- 5 (b) Boundaries of the Logging Area.
- 6 (c) Location of all Roads to be used for, or potentially impacted by, Timber Operations.
- 7 (d) The classification of all Roads as Permanent Roads, Seasonal Roads, or
 8 Temporary Roads.
- 9 (e) Road(s) and Landing(s) located in a Watercourse, Lake, WLPZ, Meadows and Wet
 10 Areas other than at road Watercourse crossings.
- 11 (f) Location of water drafting sites.
- 12 (g) Public Roads within one-quarter (1/4) mile of the Harvest Area.
- 13 (h) Location of portions of the Harvest Area with an Extreme Erosion Hazard Rating.
- 14 (i) Location of all Watercourses and Lakes with Class I, II, III or IV waters.
- 15 (j) Location of known Unstable Areas.
- 16 (k) Location of any Special Treatment Areas.
- 17 (l) Location of boundaries of timber-site classes needed for determination of stocking
 18 standards to be applied, down to at least a twenty (20) acre minimum or as specified
 19 in District Forest Practice Rules.

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

Reference: Sections 4527, 4584 and 4584.1, Public Resources Code.

§ 1038.3. Forest Fire Prevention Exemption.

Persons who are engaged in the cutting or removal of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials to reduce fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns are exempt from the plan preparation and submission requirements (PRC § 4581) and from the completion report and Stocking report requirements (PRC §§ 4585 and 4587) of the FPA. Timber Operations conducted under any notice of exemption described herein shall be limited to one (1) year from the date of receipt by the Director, and shall comply with all operational provisions of the FPA and District Forest Practices Rules applicable to “Timber Harvest Plan”, “THP”, and “Plan” definitions per 14 CCR § 895.1. This exemption shall be known as the Forest Fire Prevention Exemption. Preparation and submittal of notices of exemption under this section, or Timber Operations conducted thereunder, shall comply with the following conditions, exceptions, or requirements as described.

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

(b) This exemption shall only be used on Timberlands that are within the most recent version of the Department's Fire Hazard Severity Zone Map, which can be found on

1 the Department's website: <http://www.fire.ca.gov>, that shows the exemption will occur
2 in areas determined to be moderate, high or very high fire threat areas.

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

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

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

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

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

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

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

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

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

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

25 (A) Roads and Landings used for log hauling or other heavy equipment
26 uses during the Winter Period shall occur on a Stable Operating Surface

1 and, if necessary, be surfaced with rock to a depth and quantity sufficient
2 to maintain a Stable Operating Surface. No operation shall be permitted
3 on roads that are not subject to Hydrological Disconnection, or which
4 exhibit Saturated Soil Conditions.

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

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

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

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

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

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

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

24 (D) Temporary Roads constructed or reconstructed under this section
25 shall not be connected to other Temporary Roads constructed under
26 previous or subsequent exemptions filed pursuant to this section.

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

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

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

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

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

23 (i) All trees that are harvested or all trees that are retained shall be marked or sample
24 marked by, or under the supervision of, an RPF before felling operations begin.

25 Sample marking shall be limited to homogeneous forest stand conditions typical of
26 plantations. When trees are sample marked, the prescription for unmarked areas shall

1 be in writing and the sample mark area shall include at least ten (10) percent of the
2 harvest area to a maximum of twenty (20) acres per stand type which is representative
3 of the range of conditions present in the area.

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

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

11 (1) Minimum post treatment canopy closure shall comply with the standards of
12 14 CCR § 1052.4(d)(3)(A)

13 (2) Post treatment stand shall contain no more than two-hundred (200) trees
14 per 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
17 of eight (8) feet measured from the base of the live crown of the post-harvest
18 Dominants and Codominants to the top of the dead surface or ladder fuels,
19 whichever is taller.

20 (l) Helicopter Yarding shall be prohibited.

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

23 (n) All Timber Operations conducted in the Lake Tahoe Region pursuant to 14 CCR §
24 1038.4, if applicable, must have a valid Tahoe Basin Tree Removal Permit (as defined
25 by the TRPA) or shall be conducted under a valid TRPA Memorandum of
26 Understanding, when such a permit is 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
4 14 CCR § 895.1.

5 (p) No Timber Operations on any site that satisfies the criteria listed in 14 CCR §
6 895.1 for a Significant Archaeological or Historical Site may be conducted (information
7 on 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
11 or herbicides on the Harvest Area within one (1) calendar year of the date of
12 acceptance, the timberland owner shall notify the appropriate regional water quality
13 control board within ten (10) days prior to application of pesticides or herbicides.

14 (r) Subsequent to the completion of Timber Operations operating under this section,
15 the Department shall conduct an onsite inspection to determine compliance with this
16 section. The Department shall notify the appropriate RWQCB, the CDFW, and the
17 CGS 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 (1) The notice of exemption shall be submitted to the Director, on a form
22 provided by the Department, prior to the commencement of Timber Operations.

23 The form shall contain the following information:

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

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

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

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

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

8 (2) The notice of exemption shall include:

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

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

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

14 (A) Certify that the level of residual Stocking shall be consistent with
15 maximum sustained production of high quality timber products. The
16 residual stand shall consist primarily of healthy and vigorous Dominants
17 and Codominants from the preharvest stand. Trees retained to meet the
18 basal area stocking standards shall be selected from the largest trees
19 available on the project area prior to harvest. In no case shall Stocking
20 be reduced below the standards found within 14 CCR § 913.3 [933.3,
21 953.3] (a).

22 (B) Affirm that the construction or reconstruction of each Temporary
23 Road is necessary to provide access to Harvest Areas when no other
24 feasible alternative exists. The notice shall include the total number of
25 and cumulative length of Temporary Roads being constructed and/or
26 reconstructed.

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

6 The selection criteria shall specify how the trees to be removed, or how
7 the trees to be retained, will be designated.

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

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

25 (t) Before beginning Timber Operations, the RPF responsible for submittal of the
26 notice of exemption shall notify the Department, the appropriate RWQCB, the CDFW,

1 and the CGS of the actual commencement date of operations. The notification, by
2 telephone, mail, or email, shall be directed to the appropriate agency personnel and
3 contact information for the appropriate agency personnel shall be provided by the
4 Department on the notice of exemption form. If the notification is provided by mail,
5 Timber Operations may not commence for three (3) days after the postmark date of
6 notification.

7 (u) This subsection will expire five (5) years after February 19, 2019.

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

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

11
12 **§ 1038.4. Mapping Standards for the Forest Fire Prevention Exemption.**

13 An exemption pursuant to this 14 CCR § 1038.4 will be mapped on a USGS 7 1/2
14 minute quadrangle map, or equivalent topographic maps, and shall contain all
15 required information stated within this section. Additional maps, which may be
16 topographic or planimetric, may be used to provide the information required in this
17 section, to show specific details, and to improve map clarity. Appurtenant Roads may
18 be shown on a separate map which may be planimetric with a scale as small as one-
19 half inch equals one mile. Color coding may not be used. A legend shall be included
20 indicating the meaning of symbols used.

21 (a) Boundaries of the Logging Area.

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

23 (c) Location of all roads to be used for, or potentially impacted by, Timber Operations.

24 This shall include:

- 25 (1) The classification of all roads as proposed, Permanent, Seasonal,
26 Temporary, Deactivated, or proposed for Abandonment.

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

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

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

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

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

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

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

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

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

18 (e) Location of all Tractor Road Watercourse crossings of classified Watercourses.

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

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

21 (h) Location of known Unstable Areas.

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

1 (j) Location of boundaries of timber-site classes needed for determination of stocking
2 standards to be applied, down to at least a twenty (20) acre minimum, or as specified
3 in the District Rules.

4 (k) Location of any Special Treatment Areas.

5

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

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

8