

1 **Board of Forestry and Fire Protection**

2 **“Drought Mortality Amendments, 2015”**

3 **Title 14 of the California Code of Regulations (14 CCR):**

4 **Division 1.5, Chapter 4, Subchapter 7,**

5 **Article 2 – Timber Harvesting Plan**

6
7 **Amend:**

8 **§ 1038. Exemption.**

9 Persons who conduct the following types of ~~“~~Timber ~~”~~Operations are exempt from the
10 plan preparation and submission requirements (PRC § 4581) and from the completion
11 report and stocking report requirements (PRC §§ 4585 and 4587) of the ~~“~~FPA~~”~~ with
12 the following exceptions and requirements:

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

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

21
22 ****** (k) Harvesting dead or dying trees of any size, fuelwood or split products, in**
23 **response to drought related stress. The provisions of this exemption supersede the**
24 **provisions of any other exemptions that are in the same Harvest Area footprint. In**

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

3 (1) The exemption shall include the requirements of 14 CCR § 1038.2(a)-(c),
4 total acreage of the exemption Harvest Area (as defined in 14 CCR § 895.1), and an
5 enlarged 7½ minute quadrangle map or its equivalent that is not less than one (1) inch
6 equals 1,000 feet showing the location of the Harvest Area, which means the area in
7 which trees are expected to be felled and removed within the one (1) year effective
8 period of this exemption. For projects that require a Registered Professional Forester
9 (RPF), pursuant to 14 CCR § 1038(k)(8), the location of Timber Operations and
10 Watercourses, including watercourse classification, shall also be shown on this map. In
11 addition to the supplementary mapping requirement when an RPF is required, a
12 narrative describing the pattern of mortality shall be provided.

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

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

16 (A) Trees that are dead, or,

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

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

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

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

1 3. Trees are marked by an RPF in accordance 14 CCR § 1038(h).

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

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

11 (6) The exemption shall include the tentative commencement date of Timber
12 Operations on the notice required in 14 CCR § 1038.2. Within a fifteen (15) day period
13 before beginning Timber Operations, the Timber Operator shall notify the Department of
14 the actual commencement date for the start of operations.

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

23 (8) The exemption shall be submitted by an RPF, and include the following,
24 when Timber Operations on a cumulative Harvest Area exceeds twenty (20) acres per
25 total contiguous ownership.

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

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

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

10 (10) 14 CCR § 1308(k) shall expire on December 31, 2018.

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12 Note: Authority cited: Sections 4551, 4553, 4584, ~~4584.1~~ and 4584.1, Public Resources
13 Code. Reference: Sections 4290, 4291, 4516, 4527, 4584 and 4584.1, Public
14 Resources Code; and *EPIC v. California Department of Forestry and Fire Protection*
15 *and Board of Forestry* (1996) 43 Cal. App.4th 1011.*****

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