

1 **Board of Forestry and Fire Protection**

2 **OAK WOODLAND MANAGEMENT EXEMPTION, 2017**

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

4 **Division 1.5, Chapter 4, Subchapter 1, Article 1 and Subchapter 7, Article 2**

5 **June 13, 2017**

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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 the  
12 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.

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22 (e) Operations pursuant to an exemption under subsection (c), (d), (i), (j) and ~~(j)~~ (l) may  
23 not commence for five working days from the date of the Director's receipt of the Notice  
24 of Exemption unless this delay is waived by the Director, after consultation with other  
25 state agencies. The Director shall determine whether the Notice of Exemption is

Commented [DM1]: (1) included in 1038 (e) per  
06\_13\_17 committee direction.

1 complete, and if so, shall send a copy of a notice of acceptance to the submitter. If the  
2 Notice of Exemption is not complete and accurate, it shall be returned to the submitter  
3 and the timber operator may not proceed. If the Director does not act within five days of  
4 receipt of the Notice of Exemption, timber operations may commence.

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

Commented [DM2]: Scientific names italicized per 06\_13\_17 committee direction.

11 (1) The Harvest Area does not cumulatively exceed, during any five year period,  
12 three-hundred (300) acres per ownership in a planning watershed (CALWATER  
13 2.2), for the timberland owner(s) identified pursuant to 14 CCR § 1038.2(b).

Commented [DM3]: Draft regulatory text moved per 06\_13\_17 committee direction.

14 (2) An RPF shall prepare the Notice of Exemption and submit it to the Director.  
15 Upon submission, the Notice of Exemption shall include:

16 (A) All information required pursuant to 14 CCR § 1038.2 (a) - (c) and, total  
17 acreage of the exemption Harvest Area per planning watershed  
18 (CALWATER 2.2).

19 (B) A map of the area of timber operations that complies with 14 CCR §  
20 1034(x)(1), (3), (4), (7) (8), (9), (10), (11) and (14).

Commented [A4]: PRC 4584(1)(A)

Commented [DM5]: 1034 (x) (7) - (10) added pursuant to PRC 4581 (k)(1)(A).

21 (C) A description of the preharvest and postharvest stand structure including  
22 an estimate, by species, of diameter distribution, and basal area.

Commented [A6]: PRC 4584(k)(1)(C)

Commented [DM7]: Revised per 06\_13\_17 committee direction. Previously read (without strikethrough): A description of the preharvest stand structure and postharvest stand structure including an estimate, by species, of pre-harvest stand composition, diameter distribution, and basal area.

23 (D) A certification that states:

24 1. That a minimum of thirty-five (35) square feet of basal area per acre  
25 of California black or Oregon white oak, or both, occupy the Harvest

Commented [A8]: PRC 4584(k)(1)(B)

1 Area prior to Timber Operations occurring; and

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

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

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

19 (4) The postharvest stand shall meet, at a minimum, the following criteria:

20 (A) A minimum of eighty (80) percent of the pretreatment basal area of  
21 California black oak or Oregon white oak, or both, shall be retained; and

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

24 (C) Conifer stocking, measured in basal area, shall represent less than  
25 twenty five (25) percent of the total onsite stocking of all trees within the

Commented [A9]: PRC 4584(k)(2)

Commented [A10]: PRC 4584(k)(6)

Commented [A11]: PRC 4584(k)(6)

Commented [A12]: PRC 4584(k)(5)

Commented [DM13]: "measured in basal area" added per 06\_13\_17 committee direction.

1 Harvest Area. Decadent and Deformed Trees of Value to Wildlife (excluding  
2 hardwoods) shall not count towards required stocking standards.

Commented [DM14]: Language added per 06\_13\_17 committee direction.

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

Commented [A15]: PRC 4584(k)(3)

6 (E) All Slash created by the Timber Operations shall be treated to achieve a  
7 maximum postharvest depth of eighteen (18) inches above the ground within  
8 twenty four (24) months of the date that the director received the submitted  
9 notice. Treated Slash shall be configured in a manner that minimizes risk of  
10 fire related mortality to all retained California black oak or Oregon white oak.

Commented [A16]: PRC 4584(k)(8)

11 (5) Timber Operations shall comply with the limits established in 14 CCR § 1038,  
12 subsection (b)(1) –(10).

Commented [A17]: Option to provide additional clarity or enforceable standard. For examples see:  
923.4(i) page 128 FPRs  
1038(i)(10)(B)(III) page 198 FPRs  
1052.4(d)(5)(B)1. Page 212 FPRs

13 (6)An exemption pursuant to 14 CCR § 1038(l) is not applicable to timberlands  
14 within the Southern Sub-District of the Coast District as defined in 14 CCR §  
15 895.1. or the Southern District as defined in 14 CCR § 909.

Commented [A18]: PRC 4584(k)(9)

16 (7) The exemption shall include the tentative commencement date of Timber  
17 Operations on the notice required in 14 CCR § 1038.2. Within a fifteen (15) day  
18 period before beginning Timber Operations, the Timber Operator shall notify the  
19 Department of the actual commencement date for the start of operations. The  
20 starting date shall be directed to the designated personnel at the appropriate CAL  
21 FIRE Unit by telephone, email or by mail.

Commented [A19]: 4584(k)(11)

Commented [DM20]: Language retain per 06\_13\_17 committee discussion.

22 (8) 14 CCR § 1038(l) shall become inoperative on January 1, 2024.

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

25 Reference: Sections 4290, 4291, 4516, 4527, 4584 and 4584.1, Public Resources

1 Code; and *EPIC v. California Department of Forestry and Fire Protection and Board of*  
2 *Forestry* (1996) 43 Cal. App.4th 1011.

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