

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**

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 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.

21                                    \*\*\*\*\*

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

25                                    (1) The Harvest Area does not cumulatively exceed, during any five year period,

1 three-hundred (300) acres per ownership, for the timberland owner(s) identified  
2 pursuant to 14 CCR § 1038.2(b), in a planning watershed (CALWATER 2.2):

3 (2) An RPF shall prepare the Notice of Exemption and submit it to the Director.

4 Upon submission, the Notice of Exemption shall include:

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

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

10 (C) A description of the preharvest stand structure and postharvest stand  
11 structure including an estimate, by species, of pre-harvest stand composition,  
12 diameter distribution, and basal area.

13 (D) A certification that states:

- 14 1. That a minimum of thirty-five (35) square feet of basal area per acre  
15 of California black or Oregon white oak, or both, occupy the Harvest  
16 Area prior to Timber Operations occurring; and  
17 2. That the proposed Timber Operations are designed to restore and  
18 conserve California black oak and Oregon white oak and associated  
19 grasslands.

20 (E) A Confidential Archaeological Letter which contains all the information  
21 required for plans and Emergency Notices with the exception that the  
22 information required in 14 CCR § 929.1(c)(3) [949.1(c)(3), 969.1(c)(3)] shall  
23 not be required. The Director shall submit a complete copy of the  
24 Confidential Archaeological Letter and two copies of any required  
25 archaeological or historical site records, to the appropriate Information

**Commented [A1]:** PRC 4584 (1) (A)

**Commented [DM2]:** Decision Point: Should 1034 (x) (9) be included within this list. (x) (9) not called out specifically in statute.

**Commented [A3]:** PRC 4584 (k) (1) (C)

**Commented [BT4]:** Informed by Oak Special Prescription. Committee direction was to include BA/acre, general distribution of trees by crown position and diameter distribution.

**Commented [A5]:** PRC 4584 (k) (1) (B)

**Commented [DM6]:** Language included from 1038 (i). This language conforms to 4584 (k) (7).

Center of the California Historical Resource Information System, within 30 days from the date of Notice of Exemption submittal to the Director. Before submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of Exemption to Native Americans defined in 14 CCR § 895.1.

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

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

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

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

(C) Conifer stocking shall represent less than twenty five (25) percent of the total onsite stocking of all trees within the Harvest Area.

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

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

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

**Commented [A7]:** PRC 4584 (k) (2)

**Commented [A8]:** PRC 4584 (k) (6)

**Commented [A9]:** PRC 4584 (k) (6)

**Commented [A10]:** PRC 4584 (k) (5)

**Commented [A11]:** PRC 4584 (k) (3)

**Commented [A12]:** PRC 4584 (k) (8)

**Commented [BT13]:** Should this be accepted?

Does 1038.1 apply? Is the effective period of this exemption 1 year? If so, include provision. For example add to (5) In addition to compliance with 1038.1, Timber Operations shall comply with the limits established in 14 CCR § 1038, subsection (b)(1) – (10).

**Commented [A14]:** 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

**Commented [A15]:** PRC 4584 (k) (9)

1 (6) An exemption pursuant to 14 CCR § 1038(l) is not applicable to timberlands  
2 within the Southern Sub-District of the Coast District as defined in 14 CCR §  
3 895.1. or the Southern District as defined in 14 CCR § 909.

Commented [A16]: 4584 (k) (11)

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

Commented [DM17]: Decision Point: Language partially contained in 1038 (k) (6), whereas it is fully contained in 1038 (c) (5) (A), with CDF Ranger Unit revised.

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

18 (9) 14 CCR § 1038(l) shall become inoperative on January 1, 2024.

Commented [DM18]: Decision Point: 1038(f), exemption within the basin. This exemption is allowed within a portion of the Tahoe Basin (Northern District). Should 1038(f) be called out specifically such as in 1038(i) and (j).

Commented [DM19]: Decision Point: Could be included and is from 1038 (k) (7) OR 1038 (e) could be amended to include (1).

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

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

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