

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 **August 11, 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.

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22 (e) Operations pursuant to an exemption under subsection (c), (d), (i), ~~(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

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:

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).

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).

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

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

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

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.

6 (E) All Slash created by the Timber Operations shall be lopped, removed,
7 chipped, piled for burning, or otherwise treated, within one (1) year from the
8 date of the Director receiving the notice except for burning. Burning shall be
9 completed within two (2) years from the date of the Director receiving the
10 notice, exempt from the one year time limitations described under 14 CCR §
11 1038.1. Further, Slash shall be treated to achieve a maximum post-harvest
12 depth of eighteen (18) inches above the ground and configured in a manner
13 that minimizes risk of fire related mortality to all retained California black oak
14 and Oregon white oak.

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

17 (6) An exemption pursuant to 14 CCR § 1038(l) is not applicable to timberlands
18 within the Southern Sub-District of the Coast District as defined in 14 CCR §
19 895.1. or the Southern District as defined in 14 CCR § 909.

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

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

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

4 Reference: Sections 4290, 4291, 4516, 4527, 4584, 4584.1, and 4597, Public
5 Resources Code; and *EPIC v. California Department of Forestry and Fire Protection*
6 *and Board of Forestry* (1996) 43 Cal. App.4th 1011.

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