

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  
10 **1038**

11 **\*\*\*\* (k)** Harvesting dead or dying trees (in response to drought related stress) of any  
12 size, fuelwood or split products. The provisions of this exemption supersede the  
13 provisions of any other exemptions or emergency notices that are in the same footprint  
14 and may not be utilized on the same area in combination with any other exemptions or  
15 emergency notices. In addition to compliance with 14 CCR § 1038.1, and the limitations  
16 listed in 1038(b)(1)-(10), the following apply:

17        **(1)** The exemption shall include the requirements of 14 CCR § 1038.2(a)-(c),  
18 and a larger scale 7½ minute quadrangle map or its equivalent that is not less than one  
19 (1) inch equals 1,000 feet showing the location and size (in acres) of the harvest area  
20 (as defined in 14 CCR § 895.1), and habitable structures. For projects (as described in  
21 1038(k)(7)), that require a Registered Professional Forester (RPF), the location and size  
22 (in acres) of timber operations (as defined in PRC § 4527) and classified watercourses  
23 shall also be shown on this map.

24        **(2)** The exemption shall include a signature of the landowner certifying that they  
25 are the landowner.

**Comment [TB1]:** DECISION POINT 1  
1. Leave "as is".  
2. Replace timber operations with logging area  
(as defined in 895.1)  
3. Do something different.

1 **(3) Trees shall only be removed as per one or more of the following conditions:**

2 **(A) Trees that are dead, or**

3 **(B) Trees when fifty (50%) percent or more of the foliage-bearing crown is**  
4 **dead or fading in color from a normal green to yellow, sorrel, or brown, excluding normal**  
5 **autumn coloration changes, or when exhibiting evidence of successful bark beetle**  
6 **attacks, with indications of dead cambium and brood development distributed around**  
7 **the circumference of the bole, or**

8 **(C) As certified in writing, by an RPF, in the Notice of Exemption that the**  
9 **following conditions exist:**

10 **1. Trees designated by an RPF as likely to die (due to drought**  
11 **related stress), within one year, or**

12 **2. Trees marked by an RPF in accordance 14 CCR § 1038(b)(9).**

13 **or**

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

15 **(4) Except within one hundred (100) feet of habitable structures, roads (suitable**  
16 **for fire suppression access), fire suppression ridges, and infrastructure facilities such as**  
17 **transmission lines and towers, or water conduits and storage facilities, retain an**  
18 **average (for the harvest area) of not less than one (1) decadent and deformed tree of**  
19 **value to wildlife, snag, and/or dying tree per one (1) acre that is greater than sixteen**  
20 **(16) inches DBH (diameter breast height) and twenty (20) feet tall.**

21 **(5) The timber operator shall provide the Director the tentative commencement**  
22 **date of timber operations on the notice required in 14CCR 1038.2. Within a 15 day**  
23 **period before beginning timber operations, the timber operator shall notify CAL FIRE of**  
24 **the actual commencement date for the start of operations.**

**Comment [TB2]: DECISION POINT 2**  
1. Leave "as is".  
2. Include hardwood.

**Comment [TB3]: DECISION POINT 3**  
1. Leave "as is".  
2. Add to the end of this sentence,  
"in locations where they would persist during  
felling practices, cable yarding, and tractor,  
slash burning, and fire abatement operations."  
3. Add to the end of this sentence,  
"in locations where they would persist during  
felling practices, cable yarding, and tractor,  
slash burning, and fire abatement operations ,  
where feasible."  
4. Do something different.

1           **(6) Operations pursuant to this exemption may not commence for five (5)**  
2 **working days from the date of the Director's receipt of the Notice of Exemption unless**  
3 **this delay is waived by the Director, after consultation with other state agencies.**

4           **(7) RPF involvement is required for timber operations on a cumulative harvest**  
5 **area greater than twenty (20) acres per total ownership.**

6                   **(A) Name, address, telephone and license number of the RPF that**  
7 **prepared and submitted the Notice of Exemption shall be provided.**

8                   **(B) An RPF shall certify that no conditions were identified where**  
9 **operations, conducted in compliance with the rules of the Board, would reasonably**  
10 **result in significant adverse effects.**

11           **(8) The Department shall evaluate the effects of the exemption, allowed under 14**  
12 **CCR § 1038(k), including the number of harvest area acres, a map of the number of**  
13 **harvest area acres and the degree of compliance. The Department shall, prior to the**  
14 **expiration date, report its findings, based on this evaluation, to the Board.\*\*\*\*\***