

California Laws and Policies Related to Conversion on Timberland [excerpts]

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Z'berg-Nejedly Forest Practice Act of 1973 [excerpts]

PUBLIC RESOURCES CODE - PRC

DIVISION 4. FORESTS, FORESTRY AND RANGE AND FORAGE LANDS [4001 - 4958]

(Division 4 repealed and added by Stats. 1965, Ch. 1144.)

PART 2. PROTECTION OF FOREST, RANGE AND FORAGE LANDS [4101 - 4789.7]

(Part 2 added by Stats. 1965, Ch. 1144.)

CHAPTER 8. Z'berg-Nejedly Forest Practice Act of 1973 [4511 - 4630.2]

(Chapter 8 repealed and added by Stats. 1973, Ch. 880.)

ARTICLE 2. Definitions [4521 - 4529.5]

(Article 2 added by Stats. 1973, Ch. 880.)

4526

“Timberland” means land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

(Amended by Stats. 2011, Ch. 584, Sec. 5. (AB 1414) Effective January 1, 2012.)

4526.5

“Timber operator” means a person who is engaged in timber operations or who contracts with others to conduct the operations on his or her behalf, except a person who is engaged in timber operations as an employee with wages as his or her sole compensation.

(Amended by Stats. 2011, Ch. 584, Sec. 6. (AB 1414) Effective January 1, 2012.)

4527

(a) (1) “Timber operations” means the cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the incidental work, including, but not limited to, construction and maintenance of roads, fuelbreaks, firebreaks, stream crossings, landings, skid trails, and beds for the falling of trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, but excluding preparatory work such as treemarking, surveying, or roadflagging.

(2) “Commercial purposes” includes (A) the cutting or removal of trees that are processed into logs, lumber, or other wood products and offered for sale, barter, exchange, or trade, or (B) the cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber that are subject to Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects.

(b) For purposes of this section, the removal of trees less than 16 inches in diameter at breast height from a firebreak or fuelbreak does not constitute "timber operations" if the removal meets all of the following criteria:

(1) It is located within 500 feet of the boundary of an urban wildland interface community at high risk of wildfire, as defined in pages 751 to 776, inclusive, of Volume 66 of the Federal Register (66 FR 751-02), as that definition may be amended from time to time. For purposes of this paragraph, "urban wildland interface community at high risk of wildfire" means an area having one or more structures for every five acres.

(2) It is part of a community wildfire protection plan approved by the department or part of a department fire plan.

(3) The trees to be removed will not be processed into logs or lumber, unless the work is being conducted by, or in partnership with, a public agency or a nonprofit organization that has received a grant from the department for vegetation management or fuel reduction, in which case the logs or lumber may be sold.

(4) The work to be conducted is under a firebreak or fuelbreak project that has been subject to a project-based review pursuant to a negative declaration, mitigated negative declaration, or environmental impact report in compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). For projects to be conducted on forested landscapes, as defined in Section 754, the project and the project-based review shall be prepared by or in consultation with a registered professional forester.

(5) The removal of surface and ladder fuels is consistent with former paragraph (9) of subdivision (j) of Section 4584, as that section read on December 31, 2018.

(Amended by Stats. 2018, Ch. 626, Sec. 11. (SB 901) Effective January 1, 2019.)

ARTICLE 9. Conversion [4621 - 4628]

(Article 9 added by Stats. 1973, Ch. 880.)

4621.

(a) A person who owns timberlands that are to be devoted to uses other than the growing of timber shall file an application for conversion with the board. The board shall, by regulation, prescribe the procedures for, and the form and content of, the application. An application for a timberland conversion permit shall be accompanied by an application fee, payable to the department, in an amount determined by the board pursuant to subdivision (b).

(b) The board shall establish, by regulation, a system of graduated timberland conversion permit fees to finance the cost of administering this article.

(c) For purposes of this section, "growing of timber" shall include restoration and conservation forest management activities, which may include the removal of commercial species, if necessary to achieve specific forest health and ecological goals, including the restoration and conservation of oak woodlands, grasslands, wet meadows, and other ecologically important or unique habitats, that are not conducted in conjunction with the cutting or removal of trees or other forest products during the conversion of timberlands for other uses, including, but not limited to, residential or commercial developments, production of other agricultural

crops, recreational developments, ski developments, water development projects, and transportation projects.

(Amended by Stats. 2016, Ch. 583, Sec. 3. (AB 1958) Effective January 1, 2017.)

4621.2.

(a) If the timberlands which are to be devoted to uses other than the growing of timber are zoned as timberland production zones under Section 51112 or 51113 of the Government Code, the application shall specify the proposed alternate use and shall include information the board determines necessary to evaluate the proposed alternate use. The board shall approve the application for conversion only if the board makes written findings that all of the following exist:

(1) The conversion would be in the public interest.

(2) The conversion would not have a substantial and unmitigated adverse effect upon the continued timber-growing use or open-space use of other land zoned as timberland preserve and situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.

(3) The soils, slopes, and watershed conditions would be suitable for the uses proposed if the conversion were approved.

(b) The existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for conditionally approving an application for conversion. Conversion shall be considered only if there is no proximate and suitable land which is not zoned as timberland production for the alternate use not permitted within a timberland production zone.

(c) The uneconomic character of the existing use shall not be sufficient reason for the conditional approval of conversion. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put.

(d) In the event that the board delegates its responsibilities under this section to the director pursuant to Section 4627, the director shall make the written findings required by subdivision (a). In the event that the director denies a conversion, the applicant may request a hearing before the board within 15 days of the denial. The hearing shall be scheduled within 60 days from the filing of the appeal.

(Amended by Stats. 1990, Ch. 1237, Sec. 3.)

4622.

Approval of an application for conversion shall be conditioned upon the granting of the necessary rezoning or use permit if rezoning or a use permit is required. Except as provided in Section 4584, all timber shall be cut pursuant to an approved conversion pursuant to Section 4581, excluding requirements for stocking and methods of silviculture, except that the timber harvesting plan required by that section need not be prepared by a registered professional forester, and no timber operations shall commence until the granting of such rezoning or use permit as may be required and until the timberland conversion permit is recorded in the county recorder's office in each county wherein the timberland to be converted is located.

(Amended by Stats. 1989, Ch. 1161, Sec. 3.)

4623.

The application shall be accompanied by an affidavit by the applicant that the applicant has a present bona fide intent to convert the land to a use other than timber growing. The board may require such additional proof of intent to convert as it deems necessary.

(Added by Stats. 1973, Ch. 880.)

4624.

The board shall deny a timberland conversion permit for any of the following reasons:

- (a) The applicant is not the real person in interest.
- (b) Material misrepresentation or false statement in the application.
- (c) The applicant does not have a bona fide intention to convert the land.
- (d) The failure or refusal of the applicant to comply with the rules and regulations of the board and the provisions of this chapter.
- (e) The failure of the proposed alternate use in the application to meet the findings required in subdivision (a) of Section 4621.2 and other provisions of that section.

(Amended by Stats. 1976, Ch. 176.)

4624.5.

A person whose application for a timberland conversion permit has been denied shall be entitled to a hearing before the board pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1973, Ch. 880.)

4625.

If the board finds the applicant does have a bona fide intention to convert the land, it shall approve the application, authorizing the applicant to cut and remove any and all trees, provided that the applicant otherwise complies with this chapter.

(Amended by Stats. 2021, Ch. 133, Sec. 88. (SB 272) Effective July 23, 2021.)

4626.

If at any time the board finds that the applicant has failed to conform to the intent to convert, as set forth in the application and proof, the board may revoke the permit and require full compliance with this chapter. Any permit revocation shall be recorded in the same manner as the original permit.

(Added by Stats. 1973, Ch. 880.)

4627.

The board may, by regulation, delegate its authority and responsibilities under this article to the director if it determines that the director can more efficiently exercise such authority and carry out such responsibilities.

(Amended by Stats. 1976, Ch. 1300.)

4628.

(a) Notwithstanding any provision of this article or of Section 4581, no public agency shall be required to submit a timber harvesting plan or file an application for conversion with the board where the purpose of its timber operations is to construct or maintain a right-of-way on its own or on any other public property.

(b) Removal of trees for subdivision development, except on lands zoned as a timberland production zone pursuant to Section 51112 or 51113 of, and as defined in subdivision (g) of Section 51104, of the Government Code, where the subdivision has had a tentative subdivision map approved and a subdivision use permit granted by the city or county having jurisdiction, may be exempted by regulation from the provisions of this article, if the exemption is consistent with the purposes of this chapter.

(Amended by Stats. 1984, Ch. 636, Sec. 1.)

General Board Policies [excerpts]

DEFINITIONS 0334.2

The term “timberland” has historically been defined in a number of ways for the purposes of state policy, regulation, and education. For the purposes of this policy statement, the Board includes two definitions that originate in California’s forest practice regulation and land zoning statutes: the Z’Berg-Nejedly Forest Practice Act and the Timberland Productivity Act. The Z’Berg-Nejedly Forest Practice Act, Public Resources Code Section 4526 defines ‘timberland’ as, “...land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.” This definition is the foundation of the State’s forest practice regulation program and the Board’s adoption of Forest Practice Rules for timber management on private and state owned lands.

The Timberland Productivity Act, Government Code Section 51100, et seq established a new zoning designation intended to encourage the growing and harvesting of timber, and compatible uses on California’s private and state owned lands. Section 51104 of the Act defines “timberland” as, “...privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet [180 board feet] per acre.” The term “compatible use” is defined in Section 51104(h) of the Act as, “...any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber.” The definition goes on to specify compatible uses including, but not limited to management for watershed; management for fish and wildlife habitat or hunting and fishing; a use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas; erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities; grazing; and construction of a residence or other structure necessary for the management of land zoned as timberland production.

LAND AVAILABILITY 0334.3

In order to maintain timber growing land in California as a permanent source of current and future timber supply, the Board has found that it is in the public interest:

- A. To oppose conversion to uses which preclude timber growing and harvesting on such privately owned timberland and other lands which have been classified as Timberland Production zone (TPZ) under provisions of the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976, except where the public values to be achieved by such conversion exceed the public values derivable from timber growing. This policy applies both to conversion proposed by the owner of the land and to proposals for public acquisition of such land that do not include a managed timberland component;
- B. To manage all timberland on State forests to investigate and demonstrate management for optimum long-run timber production. Where such forest lands contain or adjoin areas of high recreation value in State or other ownership, timber growing and harvesting practices may be modified in order to minimize conflicts between other land uses and to demonstrate the costs and effectiveness of such practices;

C. To support land management plans on federal public lands that are environmentally responsible and support economically sustainable rural communities and infrastructure;

D. To recognize that conservation easements pursuant to Civil Code 815.1 can be useful planning instruments compatible with the public values associated with timberland and Timberland Production zoning (TPZ) designations. Such public values include, but are not limited to preservation of watershed integrity, and floral and faunal habitat.

Forest Practice Rules – Conversion Article (excerpts)

Article 7, Subchapter 7, Chapter 4, Division 1.5, Title 14, California Code of Regulations

§ 1100. Definitions.

The following are definitions of words and terms as used in this article:

(a) “Alternate Use” or “Alternative Use” means a proposed land use that is not a Compatible Use within a Timberland production zone. (Reference: § 51134(b), Government Code.)

(b) “Bona Fide Intention” or “bona fide intent” means a present, sincere intention of the applicant to conform with and successfully execute the conversion Plan, as determined by the Director in accordance with provisions of § 1105.2. (Reference: § 4623, Public Resources Code.)

(c) “Coastal Commercial Timberlands” means Timberland as defined in PRC § 4526, for those lands which lie within the Coastal Zone and outside a Timberland production zone. (Reference: §§ 4526 and 30243, Public Resources Code.)

(d) “Coastal Zone” means those lands defined in PRC § 30103. (Reference: § 30103, Public Resources Code.)

(e) “Compatible Use” means Compatible Use as defined in Gov. C. 51104(h) and 51201(e), as made specific by county or city ordinance adopted pursuant thereto. (Reference: §§ 51104(h) and 51201(e), Government Code.)

(f) “Contiguous” means two or more parcels of land that are adjoining or neighboring or are sufficiently near to each other, as determined by the County Board of Supervisors or City Council, that they are manageable as a single forest unit. (Reference: § 51104(b), Government Code.)

(g) “Timberland Conversion” means:

(1) Within non-TPZ Timberland, transforming Timberland to a nontimber growing use through Timber Operations where:

(A) Future timber harvests will be prevented or infeasible because of land occupancy and activities thereon; or

(B) Stocking requirements of the applicable district forest practice Rules will not be met within five years after completion of Timber Operations; or

(C) There is a clear intent to divide Timberland into ownerships of less than three acres (1.214 ha.).

(2) Within TPZ lands, the immediate rezoning of TPZ lands, whether Timber Operations are involved or not, except as exempt from a Timberland conversion permit under 14 CCR § 1104.1.

(h) “Conversion Permit” means the Timberland conversion permit, issued by the Director or the Board upon appeal, approving the application for Timberland conversion and authorizing a conversion of Timberland to use or uses other than the growing of timber. (Reference: §§ 4622, 4624, 4624.5 and 4625, Public Resources Code.)

(i) “Government Agency” means the State or any department, agency, or public body thereof, a city or county, public corporation, municipal corporation, or public district. (Reference: §§ 21062 and 21063, Public Resources Code.)

(j) “Immediate Rezoning” means a change in zoning for land use by the appropriate county or city having jurisdiction of an area within a TPZ to allow an alternative use

pursuant to Article 4 (commencing with § 51130) of Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code. (Reference: § 4526, Public Resources Code; § 51130, Government Code.)

(k) "Land Parcel" means a piece of land under one ownership where no part is completely separated from any other part by a different fee ownership.

(l) "Parcel" means parcel as defined in § 51104(i) of the Government Code.

(m) "Timberland" means Timberland as defined in PRC § 4526, for land outside a Timberland production zone. "Timberland" means Timberland as defined in Gov. C. § 51104(f), for land within a Timberland production zone. (Reference: § 4526, Public Resources Code; § 51104(f), Government Code.)

(n) "Timberland Production Zone" or "TPZ" means Timberland production zone as defined in Gov. C. § 51104(g). (Reference: § 51104(g), Government Code.)

Note: Authority cited: Section 4621, Public Resources Code. Reference: Sections 700, 701, 4526, 4621, 4622, 4623, 4624, 4624.5, 4625, 4626, 21062, 21063, 30103 and 30243, Public Resources Code; and Sections 51100, 51111 and 51134(b), Government Code.

§ 1101. Purpose.

The purpose of these regulations is to interpret and make specific certain provisions of the Z'berg-Nejedly Forest Practice Act of 1973, contained in Chapter 8 (commencing with § 4511) of Part 2, Division 4 of the Public Resources Code; the Environmental Quality Act of 1970, contained in Division 13 (commencing with § 21000) of the Public Resources Code; portions of the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976 (Chapter 176, California Statutes of 1976), contained in Chapter 67 (commencing with § 51100) or Part 1, Division 1, Title 5 of the Government Code; the California Coastal Act of 1976, contained in Division 20 (commencing with § 30000) of the Public Resources Code; and the Public Records Act, contained in Chapter 3.5 (commencing with § 6250) of Division 7, Title 1 of the Government Code. These regulations pertain to the conversion of certain timber-growing lands to a use or uses other than the growing of timber.

Note: Authority cited: Section 4621, Public Resources Code. Reference: Sections 4621 and 30243, Public Resources Code; Section 51133, Government Code; and Chapters 176, 1300 and 1330, Statutes of 1976.

§ 1102. Authority Delegated to Director.

The Board delegates its authority and responsibilities to the Director for administration of Article 9 (commencing with § 4621) of Chapter 8, Part 2, Division 4 of the Public Resources Code, and Article 4 (commencing with § 51130) of Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code, and the administrative regulations adopted pursuant to each of the above cited authorities, except that all hearings thereunder shall be before the Board.

Note: Authority cited: Section 4627, Public Resources Code. Reference: Sections 4621-4628, Public Resources Code; and Section 51133, Government Code.

§ 1103. Conversion of Timberland.

Any Person, firm, corporation, company, partnership or government agency owning Timberland for which the Timberland owner proposes conversion as defined in § 1102

shall apply to the Director on a form prescribed by him for issuance of a Timberland Conversion Permit.

Note: Authority cited: Sections 4621 and 4627, Public Resources Code. Reference: Section 4621, Public Resources Code.

§ 1103.1. Prohibited Activity.

(a) No Timber Operations or other conversion activities shall be conducted on Timberland which is proposed to be converted to a use other than the growing of timber unless a conversion permit has been issued by the Director or the Board upon appeal and the permit has been recorded in compliance with 14 CCR § 1107.4(a).

(b) No Timber Operations shall be conducted on Timberland for which a conversion permit has been issued until a Timber Harvesting Plan has been filed with, and found in conformance by, the Director in accordance with Article 7 (commencing with § 4581) of Chapter 8, Part 2, Division 4 of the Public Resources Code and the Rules and regulations of the Board issued pursuant thereto.

(c) The Timberland owner shall provide each Timber Operator copies of both the recorded conversion permit, and recorded amendments thereto, and the approved Timber Harvesting Plan. Copies of said documents shall be conveniently available for inspection at all times during Timber Operations conducted pursuant to said conversion permit.

Note: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

§ 1103.2. Public Records.

All applications, forms, documents, correspondence, maps, photographs, and other materials submitted to the Director or Board relating to an application for conversion are public records pursuant to the provisions of the Public Records Act, contained in Chapter 3.5 (commencing with § 6250) of Division 7, Title 1 of the Government Code.

Note: Authority cited: Section 4621, Public Resources Code; and Sections 6250-6261, Government Code. Reference: Section 6252(d), Government Code; and Section 4582.6, Public Resources Code.

§ 1104. Operations Requiring Conversion Permit.

Except as exempted by 14 CCR §§ 1104.1 and 1104.2 of this article a Timberland conversion permit issued by the Director is required for conversion of Timberland as defined in § 1100. Issuance of the Timberland Conversion Permit to the Timberland owner must be completed before conversion operations begin. "Conversion operations" include final immediate rezoning of Timberland production zone lands, and Timber Operations as defined in PRC § 4527 on nontimberland production zone Timberlands.

Note: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Section 4527, Public Resources Code.

§ 1104.1. Conversion Exemptions.

Timber Operations conducted under this subsection shall be exempt from Conversion Permit and timber harvesting Plan requirements of this article except no tree that existed before 1800 A.D. and is greater than sixty (60) inches in Diameter at stump height for Sierra or Coastal Redwoods, and forty-eight (48) inches in Diameter at stump

height for all other tree Species shall be harvested unless done so under the conditions or criteria set forth in subsection 1104.1(i). Timber Operations shall comply with all other applicable provisions of the Z'berg-Nejedly Forest Practice Act, regulations of the Board and currently effective provisions of county general plans, zoning ordinances and any implementing ordinances. The Notice of Conversion Exemption Timber Operations shall be considered synonymous with the term "Plan" as defined in 14 CCR § 895.1 when applying the operational Rules and regulations of the Board.

(a) This conversion exemption is applicable to a conversion of Timberland to a non-timber use only, of less than three acres in one contiguous ownership, whether or not it is a portion of a larger land parcel and shall not be part of a THP. This conversion exemption may only be used once per contiguous land ownership. If all or a portion of the contiguous land ownership has been subject to prior, unpermitted timberland conversion, a conversion exemption hereunder shall not be accepted unless the Director determines that it would be consistent with the purposes of the Act. No Person, whether acting as an individual, acting as a member of a partnership, or acting as an officer or employee of a corporation or other legal entity, may obtain more than one exemption pursuant to this section in a five-year period. If a partnership has as a member, or if a corporation or any other legal entity has as an officer or employee, a Person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this section, means an individual, partnership, corporation, or any other legal entity.

(1) A Notice of Conversion Exemption Timber Operations (notice) must be prepared by an RPF and submitted to the Director. The notice shall contain the following:

(A) the names, addresses, and telephone numbers of the Timber Owner, owner of the Timberland to be converted, RPF, Timber Operator, and the submitter of the Notice of Conversion Exemption Timber Operations;

(B) legal description of the area where the Timber Operation is to be conducted, showing section, township, range, county and assessor parcel number;

(C) maps showing the ownership boundaries, the location of the Timber Operation, boundaries of the conversion, access routes to operation, location and classification of all Watercourses, and Landing locations;

(D) incorporation of a signed and dated statement from the authorized designee of the County Board of Supervisors stating that the conversion is in conformance with all county regulatory requirements, including county public notice requirements. When counties do not have an authorized designee, the RPF shall certify that the county has been contacted and the conversion is in conformance with county regulatory requirements (this may be incorporated into the notice);

(E) incorporation of a statement by the owner of the Timberland to be converted:

1. certifying that this is a one-time conversion to non-Timberland use,
2. certifying that after considering the owner's own economic ability to carry out the proposed conversion and the feasibility evaluation required by 14 CCR § 1104.1(a)(6) that there is "bona fide intent", as defined in 14 CCR § 1100(b), to convert,
3. specifying what the non-Timberland use will be after conversion, and

4. certifying and declaring under penalty of perjury that he/she whether acting as an individual, acting as a member of a partnership, or acting as an officer or employee of a corporation or other legal entity, has not obtained an exemption pursuant to this section in the last five years unless a waiver has been granted pursuant to § 1104.1(a)(9); and (F) signature of the submitter, Timberland owner responsible for the conversion, the Timber Operator, and the RPF.

(2) The following conditions apply to conversion exemption Timber Operations:

(A) All Timber Operations shall be complete within one year from the date of acceptance by the Director.

(B) All conversion activities shall be complete within two years from the date of acceptance by the Director unless under permit by local jurisdiction. Failure to timely complete the conversion shall require compliance with Stocking Standards of PRC § 4561 and Stocking report requirements of Forest Practice Act and Board regulations.

(C) The RPF or Supervised Designee shall visit the site and flag the boundary of the conversion exemption Timber Operation and flag any applicable WLPZs and Equipment Limitation Zones.

(D) This section refers to Slash and Woody Debris resulting from Timber Operations associated with conversion exemptions. The Timber Operator shall be the responsible party for the treatment of logging Slash and Woody Debris.

1. Unless otherwise required, Slash greater than one inch in Diameter and greater than two feet long, and Woody Debris, except pine, shall receive full treatment no later than April 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.

2. All pine slash three inches and greater in Diameter and longer than four feet must receive initial treatment if it is still on the parcel, within seven (7) days of its creation.

3. All pine Woody Debris longer than four feet must receive an initial treatment prior to full treatment.

4. Initial treatment shall include limbing Woody Debris and cutting Slash and Woody Debris into lengths of less than four feet, and leaving the pieces exposed to solar radiation to aid in rapid drying.

5. Full treatment of all pine Slash and Woody Debris must be completed by March 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.

6. Full Slash and Woody Debris treatment may include any of the following:

a. burying;

b. chipping and spreading;

c. piling and burning; or

d. removing Slash and Woody Debris from the site for treatment in compliance with (a)-(b).

Slash and Woody Debris may not be burned by open outdoor fires except under permit from the appropriate fire protection agency, if required, the local air pollution control district or air quality management district. The burning must occur on the property where the Slash and Woody Debris originated.

7. Slash and Woody Debris, except for pine, which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying by April 1 of the year following its

creation. Pine Slash and Woody Debris which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying within seven (7) days of its creation. All treatment work must be completed prior to the expiration date for the conversion exemption.

8. Any treatment which involves burning of Slash or Woody Debris shall comply with all state and local fire and air quality Rules.

9. This section does not supersede more restrictive treatments or time frames within a Forest district or subdistrict.

(E) Timber Operations may be conducted during the Winter Period. Tractor Operations in the Winter Period are allowed under any of the following conditions:

1. During dry, rainless periods but shall not be conducted on Saturated Soil Conditions that may produce Significant Sediment Discharge. Erosion Control structures shall be installed on all constructed skid trails and Tractor Roads prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

2. When ground conditions in the conversion exemption area and Appurtenant Roads satisfy the "hard frozen" definitions in 14 CCR § 895.1.

3. Over-snow operations where no soil disturbance occurs.

(F) No Timber Operations within a WLPZ unless specifically approved by local permit (e.g. County, City).

(G) The Timber Operator shall not conduct Timber Operations until receipt of the Director's notice of acceptance. Timber Operations shall not be conducted without a valid on-site copy of the Director's notice of acceptance of operations and a copy of the Notice of Conversion Exemption Timber Operations as filed with the Director.

(H) No sites of rare, threatened or endangered plants or animals shall be disturbed, threatened or damaged and no Timber Operations shall occur within the Buffer Zone of a Sensitive Species as defined in 14 CCR § 895.1.

(I) No Timber Operations on significant historical or archeological sites, except under the following conditions:

1. If a significant archeological site is identified by the RPF preparing the Notice of Conversion Exemption within the Project boundary, the site may be preserved in place by capping or covering with a layer of soil prior to submission.

a. If a site has been preserved in place, the RPF preparing the Notice of Conversion Exemption shall obtain written concurrence from a Department Archeologist prior to submission indicating operations will not cause damage to a significant archeological site.

b. The written concurrence from a Department Archeologist shall be submitted with the Notice of Conversion Exemption.

(J) The RPF and the Timber Operator shall meet (on-site, or off-site) if requested by either party to ensure that sensitive on-site conditions and the intent of the conversion regulations such as, but not limited to, slash disposal, will be complied with during the conduct of Timber Operations.

(K) Before beginning Timber Operations, the Timber Operator shall notify the Department of the actual commencement date of operations. The notification, by telephone, mail, or email, shall be directed to the appropriate CAL FIRE Unit Headquarters, Forest Practice Inspector or other designated personnel. If the

notification is provided by mail, Timber Operations may not commence until three (3) days after the postmark date of notification.

(3) A neighborhood notification of conversion exemption Timber Operations shall be posted on the ownership visible to the public by the RPF or Supervised Designee, at least five (5) days prior to the postmark date of submission of the Notice of Conversion Exemption Timber Operations to the Director. The date of posting shall be shown on the neighborhood notice. In addition, immediately prior to the submission of the exemption to the Director, the landowner shall mail a letter to adjacent landowners within 300 feet of the boundaries of the exemption, and to Native Americans, as defined in 14 CCR § 895.1 notifying them of the intent to harvest timber. The mailed letter of notice and the posted notice shall contain a map of the project area and the following information on a form prepared by the RPF:

(A) the name, address and telephone number of the Timberland owner, the Timber Operator, the agency of the county responsible for land use changes and the designated representative; if any, and the RPF;

(B) the location of the Project, parcel number, street address, section, township and range, and;

(C) A statement explaining that this is a conversion from Timberland use to a new land use, what the new land use will be, and that the maximum size is less than three acres.

(4) The Director shall determine if the Notice of Conversion Exemption Timber Operations is complete and accurate within fifteen (15) days from the date of receipt.

(A) If the Notice of Conversion Exemption Timber Operations is not complete and accurate it shall be returned to the submitter identifying the specific information required. When found complete and accurate, the Director shall immediately send a notice of acceptance of operations to the submitter.

(5) The Timberland owner shall, within one month from the completion of conversion exemption Timber Operations, which includes all slash disposal work, submit a work completion report to the Director.

(6) The Timberland owner shall, using the services of an RPF to the extent the information required is within the scope of professional forestry practice, provide information documenting that the conversion to the stated non-timber use is Feasible based upon, at a minimum, the following:

(A) the extent of the vegetation removal and site preparation required for the conversion;

(B) the suitability of soils, slope, aspect, and microclimate for the stated non-timber use;

(7) The Department shall provide for inspections, as needed, to determine that the conversion was completed.

(8) The notice shall expire if there is any change in Timberland ownership.

(A) If the conversion has not been completed, the Timberland owner on the notice shall notify the Department of the change in Timberland ownership on or before five (5) days after a change in ownership.

(B) If operations have been conducted, but not completed under the exemption, the Timberland owner on the notice shall notify the new Timberland owner at least fifteen (15) days prior to the sale of the Timberland of the requirements under 14 CCR § 1104.1(a)(8)(C).

(C) If operations have been conducted, but not completed under the exemption, the new Timberland owner shall:

1. submit a new notice, or
2. comply with the following:
 - a. harvest no additional timber;
 - b. meet Stacking requirements of 14 CCR § 1104.1(a)(2)(B);
 - c. dispose of the slash created under the exemption activities according to 14 CCR § 1104.1(a)(2)(D);
 - d. provide Erosion Control for skid trails, roads, Landings, and disturbed areas as required by the Forest Practice Rules.
 - e. submit a report within ninety (90) days of the change of Timberland ownership that items a through d above were completed.

(9) A Timberland owner may request a waiver to the five-year limitation described in 14 CCR § 1104.1(a). The Director may grant the waiver upon finding that one of the following conditions exist:

- (A)1. the construction of a building approved by the appropriate county/city permitting process is listed in the accepted Notice of Conversion Exemption Timber Operations as the non-Timberland use after the conversion, and
2. the Timberland owner demonstrates to the Director that substantial liabilities for building construction have been incurred on each conversion exemption that the Timberland owner has received in the last 5 years at the time the waiver is requested, and
3. operations conducted on all exemptions issued to the Timberland owner within the past 5 years, prior to the time the waiver is requested, have been conducted in a manner that meets or exceeds the intent of the Act and Rules or any corrective work required by the Director has been satisfactorily completed.

(B) the change of ownership which caused the previous notice to expire was not the result of the sale of the Timberland and the new Timberland owner provides information demonstrating that the imposition of the 5-year limitation described in 14 CCR § 1104.1(a) would impose an undue hardship on the Timberland owner.

(C) the notice has expired and no operations have been conducted.

(D) The Timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the 5-year limitation described in 14 CCR § 1104.1(a) would impose an undue hardship on the Timberland owner.

(b) Construction or maintenance of right-of-way by a public agency on its own or any other public property.

(c) The clearing of trees from Timberland by a private or public utility for construction of gas, water, sewer, oil, electric, and communications (transmitted by wire, television, radio, or microwave) rights-of-way, and for maintenance and repair of the utility and right-of-way. The said right-of-way, however, shall not exceed the width specified in the Table of Normal Rights-of-Way Widths for Single Overhead Facilities and Single Underground facilities and the supplemental allowable widths.

Nothing in this section shall exclude the applicable provisions of PRC §§ 4292 and 4293, and 14 CCR §§ 1250 through 1258 inclusive for fire hazard clearance from being an allowable supplement to the exempt widths.

(d) Table of Rights-of-Way Widths for Single Overhead Facilities (A single facility for overhead electric lines means a single circuit)

[Tables not printed here]

(e) The above right-of-way widths for above ground facilities shall be allowed supplemental clearances as follows:

(1) Equal additional rights-of-way for each additional facility, including these allowable supplemental clearances under this section.

(2) Additional clearance widths for poles and towers, and for conductor sway as provided in PRC §§ 4292 and 4293, and 14 CCR §§ 1250 through 1258 inclusive, as applicable.

(3) Additional clearance for removal of Danger Trees as defined in 14 CCR § 895.1.

(4) Additional land area for substation and switch yards, materials storage and construction camps, with clearance for firebreaks, and security fencing

(f) Table of Rights-of-Way Widths for Single Underground Facilities

[Tables not printed here]

(g) The above right-of-way widths for underground facilities and penstocks, syphons, ditches and flumes shall be allowed supplemental clearances as follows:

(1) Additional width for cuts and Fills.

(2) Removal of trees or plants with roots that could interfere with underground facilities, or with cuts and Fills for installation.

(3) Additional clearance for removal of Danger Trees as defined in 14 CCR § 895.1.

(4) For compressor, metering and control stations on natural gas pipelines; including firebreaks and security fencing:

(A) 450 foot width at one side of right-of-way and 500 foot length along the compressor stations.

(B) 300 feet x 300 feet on or alongside the right-of-way for metering and control stations.

(h) In-lieu practices for Watercourse and Lake Protection Zones as specified under Article 6 of these Rules, exceptions to Rules, and alternative practices are not allowed.

(i) Harvesting of large old trees shall only occur when:

(1) the tree is not critical for the maintenance of a Late Successional Stand and

(2) an RPF attaches to the exemption an explanation and justification for the removal based on the RPF's finding that one or more of the criteria or conditions listed under subsection

(A), (B), or (C) are met. The requirements of (i)(2) need not be met if an approved management document; including but not limited to a HCP, SYP, NTMP, WFMP, or PTEIR;

addresses large old tree retention for the area in which the large old tree(s) are proposed for removal and the removal is in compliance with the retention standards of that document.

All trees to be harvested pursuant to this subsection shall be marked by an RPF prior to removal.

(A) The tree(s) is a hazard to safety or property. The hazard shall be identified in writing by an RPF or professionally certified arborist;

(B) The removal of the tree(s) is necessary for the construction of a building as approved by the appropriate county/city permitting process and as shown on the county/city approved site Plan, which shall be attached to the Notice of Exemption;

(C) The tree is dead or is likely to die within one year of the date of proposed removal, as determined by an RPF or professionally certified arborist.

Note: Authority cited: Sections 4551, 4553, 4584, 4604, 4611 and 4628, Public Resources Code. Reference: Sections 4512, 4513, 4584, 4597, 4628 and 21083.2(b)(3), Public Resources Code.

§ 1104.2. Exemption for Conversion of Non-TPZ Land for Subdivision Development.

Timber Operations for the conversion of land not in the Timberland Production Zone (TPZ) for subdivision development are exempt from this article, subject to all of the following conditions:

- (a) The county board of supervisors or city council having jurisdiction has approved a tentative subdivision map pursuant to the Subdivision Map Act commencing with Government Code § 66410.
- (b) The county board of supervisors or city council having jurisdiction has granted required use permits and other necessary approvals.
- (c) Before Timber Operations begin and before a Timber Harvesting Plan (THP) is submitted, the Timberland owner shall file a Notice of Exemption from Timberland Conversion Permit for Subdivision on a form prescribed by the Director. The Notice shall include, but need not be limited to, the following:
 - (1) Names and addresses of Timberland owner(s), Timber Owner(s), and developer(s).
 - (2) Documentation that a Notice of Determination has been filed with the Office of Planning and Research pursuant to PRC § 21108 or with the appropriate county clerk pursuant to PRC § 21152.
 - (3) Estimated date of completion of the Project.
 - (4) Acres of Timberland to be converted.
 - (5) Legal property description of the conversion area.
 - (6) Signature, title, and date of signing of the Timberland owner(s). In the case of a partnership, at least one of the partners shall sign the application. For a corporation, a corporate officer shall sign. In other cases of more than one owner, all owners shall sign. An agent may sign for the owner(s) if so designated in writing submitted with the Notice.
 - (7) Plat or map of the area to be converted.
 - (8) Documentation of the county or city tentative subdivision map approval, conditions of approval, required use permit, or other required county or city Project approvals.
- (d) Except as provided in this article, the applicable requirements of PRC §§ 4511 through 4628 inclusive, PRC §§ 5093.50 through 5093.68 inclusive, and all regulations adopted pursuant thereto shall apply to the Timber Operations.
- (e) If the subdivision development Project is not completed or is abandoned, the Director may take corrective action pursuant to PRC §§ 4605-4611 to have restocked those parts of the area from which timber has been harvested and which do not meet the Stocking requirements of this chapter. For purposes of this subsection, the Project shall be deemed abandoned or not completed if:
 - (1) The county or city tentative map approval has expired; and

(2) No further work has been carried on to complete the subdivision for three years after the expected date of completion stated in the THP. The Director shall order inspections as needed to determine whether the Project has been completed as proposed.

(f) Partial performance shall be recognized. Those portions of the subdivision shall be deemed completed and excluded from the Stocking requirement where the development has been completed and residential services have been provided pursuant to the Plan for development.

Note: Authority cited: Sections 4551, 4621 and 4628, Public Resources Code. Reference: Sections 4551.5, 4621.1 and 21100, Public Resources Code.

§ 1104.3. Timberland Conversion Permit Fees. [*not printed here*]

§ 1105. Application.

The conversion permit application shall be in a form prescribed by the Director and shall require but not be limited to the following information: the name and address of the applicant; the name and address of the Timberland owner of record; the name and address of the Timber Owner; the legal description, general Plan designation, and zoned status of the proposed conversion area; the proposed future use or uses of said area; the dates when conversion is to be commenced and completed; the approximate number of acres to be converted; the zoned status of adjacent property; a description of other land owned by the applicant in the surrounding area which could accommodate the proposed use or uses; together with a copy of the conversion Plan. The application shall be executed under penalty of perjury.

Note: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Section 4623, Public Resources Code.

§ 1105.2. Director's Determination.

The Director shall determine the applicant's bona fide intention to convert in light of the present and predicted economic ability of the applicant to carry out the proposed conversion; the environmental feasibility of the conversion, including, but not limited to, suitability of soils, slope, aspect, quality and quantity of water, and micro-climate; adequacy and feasibility of possible measures for mitigation of significant adverse environmental impacts; and other foreseeable factors necessary for successful conversion to the proposed land use.

§ 1105.3. Conversion Plan.

A conversion Plan in a form prescribed by the Director shall become a part of the application. The Plan conversion shall set forth in detail information pertaining to present and future use, soils, topography, conversion techniques, conversion time schedule and such other information as may be required and is applicable to the particular future use to which the land will be devoted.

Note: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Sections 4621 and 4627, Public Resources Code.

§ 1105.4. Additional Proof.

The Director or the Board upon appeal may require that the applicant provide such further or additional proof or information as in the Director's or Board's judgment is

necessary to allow him to decide whether or not to issue a conversion permit pursuant to PRC §§ 4621.2 and 4623.

Note: Authority cited: Sections 4621.2 and 4623, Public Resources Code. Reference: Section 4624.5, Public Resources Code.

§ 1106. Conversion Permit Issuance.

(a) The Director shall issue a conversion permit if:

- (1) in his judgment the bona fide intent of the applicant to convert is established;
- (2) he makes the written findings pursuant to PRC § 4621.2, when applicable;
- (3) he makes the written findings pursuant to PRC § 21081, if an environmental impact report has been prepared;
- (4) he finds that necessary and Feasible mitigation measures have been incorporated into the proposed conversion; and
- (5) he finds that no other proximate and suitable land not within a TPZ is available for the proposed alternative use for lands within a TPZ, if PRC § 4621.2 applies.

(b) The Board upon appeal shall apply the same standards as the Director in subsection (a) above in determining whether to issue a conversion permit.

Note: Authority cited: Sections 4625, 4627 and 21081, Public Resources Code. Reference: Sections 4621.2 and 21081, Public Resources Code.

§ 1106.1. Contents of Conversion Permit.

The conversion permit shall include, but not be limited to, the name of the permittee, identification of code section of the forest practice Rules and regulations from which the Timber Operations are exempt, description of the lands to which the conversion permit is applicable, and the period of time during which the conversion permit is valid.

Note: Authority cited: Section 4625, Public Resources Code. Reference: Section 4625, Public Resources Code.

§ 1106.2. Timber Harvesting Plan Processing.

Prior to the start of Timber Operations, the applicant shall submit to the Director a Timber Harvesting Plan applicable to Timber Operations set forth in the conversion Plan. The THP may be submitted concurrently with the Timberland Conversion Permit application but the Director may not approve the THP until the Timberland Conversion Permit is issued.

Note: Authority cited: Sections 4621 and 4627, Public Resources Code. Reference: Sections 4581 and 4582, Public Resources Code.

§ 1106.3. Recordation, Renewal, Transferability.

(a) The permittee shall submit the conversion permit to the County Recorder for recording in each county in which the property is located before beginning any operations contemplated under said permit. Amendments, suspensions, revocations, and cancellations of conversion permits shall be recorded in the same manner.

(b) A conversion permit may be renewed by the Director upon a proper showing of cause and necessity by the permittee. The Director may deny renewal and require a new application if he finds that circumstances have substantially changed.

(c) The privilege granted to the permittee is nontransferable and nonassignable for any purpose without written approval of the Director.

Note: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

§ 1106.4. Conversion Permit Denial.

(a) The Director shall deny a conversion permit:

(1) for any of the reasons set forth in PRC § 4624;

(2) if, in the Director's judgment, the applicant has failed to provide satisfactory proof of his bona fide intent to convert;

(3) if the Director cannot make the findings required by PRC § 21081, if an environmental impact report has been prepared;

(4) if the Director finds that necessary and Feasible mitigation measures have not been incorporated into the proposed conversion; or

(5) for lands within a TPZ, if PRC § 4621.2 applies and the Director finds that other proximate and suitable land not within a TPZ is available for the proposed alternative use.

(b) The Board upon appeal shall deny a conversion permit for any of the reasons specified in subsection (a) above.

Note: Authority cited: Sections 4624 and 4627, Public Resources Code. Reference: Sections 4621.2, 4624, 4624.5 and 21081, Public Resources Code.

§ 1106.5. Denial, Suspension, Revocation.

(a) Except as provided in subsection (b), the Director may deny, suspend or revoke a conversion permit in accordance with the requirements of Article 9 (commencing with § 4621) of Chapter 8, Part 2, Division 4 of the Public Resources Code, provided that all proceedings in connection with such action shall be conducted in accordance with the provisions of Chapter 5 (commencing with § 11500) of Part 1, Division 3, Title 2 of the Government Code.

(b) The Director may deny a conversion permit pursuant to PRC § 4621.2(e) provided that all proceedings in connection with such action shall be conducted in accordance with the provisions of subsection (a) above, except that the applicant must request a hearing before the Board within 15 days of service of the denial. The hearing shall be commenced within 60 days from the filing of the appeal unless a later hearing date is mutually agreed upon by the applicant and the Board.

Note: Authority cited: Sections 4621.2(e), 4624, 4626 and 4627, Public Resources Code; and Sections 11500 et seq., Government Code. Reference: Section 4621, Public Resources Code; and Sections 11500 et seq., Government Code.

§ 1107. Cancellation by Permittee.

Upon application by the permittee for cancellation, the conversion permit may be cancelled by the Director upon such terms and conditions as he may set forth. Upon cancellation of the conversion permit, an agreement of cancellation, executed by the permittee and the Director, shall be recorded by the permittee in those counties in which the permit was originally recorded. Upon such recording, the subject land shall revert back to Timberland and Stocking shall be established pursuant to PRC §§ 4561 and 4561.3. The Director shall provide a copy of the cancellation agreement to the county assessors and the county planning directors of those counties in which the property is located.

Note: Authority cited: Section 4621, Public Resources Code. Reference: Sections 4561 and 4561.3, Public Resources Code.

§ 1108. Coastal Zone Conversion.

A Timberland conversion permit is required for conversion of coastal commercial Timberland to uses other than the growing of timber. Except as hereafter provided, conversion of any such Timberland shall be limited to providing for necessary timber processing and related facilities.

The Director, or the Board upon appeal, may approve conversion of coastal commercial Timberland for other than necessary timber processing and related facilities only if all of the following conditions are met:

- (a) Such conversion will not introduce new uses or significantly intensify existing uses that are incompatible with timber growing on areas adjacent to the area proposed for conversion, or that have a substantial adverse impact on coastal resources, as determined by the Director; and
- (b) The area proposed for conversion is in a unit of noncommercial size as determined by the California State Coastal Commission or the zoning in a certified local coastal plan; and
- (c) The conversion complies with all other applicable laws, Rules, and regulations.

Note: Authority cited: Sections 4621, 21100 and 30243, Public Resources Code. Reference: Sections 21100, 30007.5 and 30243, Public Resources Code.

§ 1109. Immediate Rezoning.

Immediate rezoning of land within a TPZ shall be accomplished in compliance with one of the two procedures set forth in 14 CCR §§ 1109.1 and 1110.

Note: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

§ 1109.1. City or County Tentative Approval.

When a county Board of Supervisors or City Council tentatively approves an immediate rezoning pursuant to Gov. C. § 51133, for which a conversion permit is also required, it shall forward the following to the Director: documentation of its tentative approval upon a four-fifths vote of the full body; copies of the Notices sent to landowners within one mile (1.61 km) of the exterior boundary of the land upon which immediate rezoning is proposed, and the formal findings that immediate rezoning is not inconsistent with the purpose of subdivision (j) of Section 3 of Article XIII of the State Constitution, and findings that rezoning is in the public interest, as required by Gov. C. § 51133(a); minutes of public hearing(s), including hearings held by the appropriate local planning agency pursuant to the application for immediate rezoning and any related applications for local government general plan land use category change, conditional use permit, or other entitlement for use; copies of documents, plans, maps, and photographs submitted in conjunction with the said public hearing(s); and copies of completed environmental documentation submitted pursuant to the application for immediate rezoning.

Upon the receipt of the foregoing materials, the completed conversion application and conversion Plan, and such further information as may be required, the Director shall determine whether or not to approve the conversion pursuant to PRC § 4621.2. Upon

approval of the conversion by the Director or by the Board upon appeal, the Director shall so notify the county Board of Supervisors or City Council, who may then finalize the immediate rezoning.

Note: Authority cited: Section 4621.2, Public Resources Code. Reference: Section 51133, Government Code.

§ 1109.2. Public Interest.

In determining whether or not to make the written finding contained in PRC § 4621.2(a)(1), the Director or the Board upon appeal shall consider the following elements of public interest:

(a) Whether the alternative use will serve a public need; provide a public service; benefit the local community and region, including economic and social benefits; avoid damage or threatened damage to other property, especially public parks and other publicly-owned lands; or involve costs and secondary impacts caused by services required by the alternative use.

(b) The adverse environmental impacts of the alternative use and mitigation thereof. Impacts shall include, but not be limited to, impacts on Lakes, Streams, and other waters; wildlife; air quality; and aesthetics.

(c) The impact on the long term timber supply capability of California, including the cumulative impact from conversion of similar properties.

(d) The availability of proximate and suitable land to accommodate the alternative use which lies outside of a TPZ or which would involve the removal of lower quality Timberlands from productive use.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(1), (a)(3) and (b), Public Resources Code; Sections 51110(b), 51110.1(b), 51112(b) and (c), 51134(a)(1) and (b), Government Code.

§ 1109.3. No Substantial and Unmitigated Adverse Effect upon Other Timberland Production Zones Within One Mile (1.609 km).

In determining whether or not to make the written finding contained in PRC § 4621.2(a)(2), the Director or the Board upon appeal shall consider such adverse factors as increased fire hazard and risk, forest pest potential, mass land movement, gully and sheet erosion, increased windthrow, shock to nearby stands from exposure, harmful fumes, emissions, dust, discharge of waste or chemicals, unconfined grazing of livestock, diversion or impoundment of water, wildlife use changes damaging to other properties, and other potential adverse factors.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(2), Public Resources Code.

§ 1109.4. Suitability of Soils, Slopes, and Watersheds.

In determining whether or not to make the written finding contained in PRC § 4621.2(a)(3), the Director or the Board upon appeal shall consider the following elements: whether the soil types and characteristics can support the proposed use, the Erosion Hazard Rating of the soils and slopes in light of the proposed use, potential mass land movement or subsidence, possible Harm to quality or quantity of water produced in the watershed, fire hazard and risk to the watershed, adverse Effects to fish and wildlife from removal of habitat cover, and such other elements as appropriate.

Note: Authority cited: Section 4621.2(a)(3) and 4623, Public Resources Code. Reference: Section 4621.2(a)(3), Public Resources Code.

§ 1109.5. No Other Reasonable or Comparable Timber Growing Use.

In determining pursuant to PRC § 4621.2(c) whether or not Timberlands within a TPZ that are the subject of a conversion application may be put to another reasonable or comparable timber-growing use, the Director or the Board upon appeal shall consider timber stand volume, timber growth rate, timber site and soil, climate, potential markets, any other relevant factors.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(c), Public Resources Code.

§ 1109.6. Supplemental Data and Opinions.

As an aid to the Director or the Board upon appeal in making the findings and approving the proposed conversion pursuant to PRC § 4621.2, the Director or the Board upon appeal may upon their own initiative consult with or request reports from appropriate experts. The Director or the Board upon appeal may also require the applicant to furnish appropriate and necessary information or documentation, including that from appropriate expert consultants at the applicant's expense.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2, Public Resources Code.

California Timberland Productivity Act of 1982 [excerpts]

GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607]

(Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 1. CITIES AND COUNTIES [50001 - 52203]

(Division 1 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5]

(Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 6.7. Timberland [51100 - 51155]

(Chapter 6.7 added by Stats. 1976, Ch. 176.)

ARTICLE 1. General Provisions [51100 - 51104]

(Article 1 added by Stats. 1976, Ch. 176.)

51100.

This chapter shall be known and may be cited as the California Timberland Productivity Act of 1982.

(Added by Stats. 1982, Ch. 1489, Sec. 2.)

51101.

The Legislature hereby finds and declares all of the following:

- (a) The forest resources and timberlands of this state, together with the forest products industry, contribute substantially to the health and stability of the state's economy and environment by providing high quality timber, employment opportunities, regional economic vitality, resource protection, and aesthetic enjoyment.
- (b) The state's increasing population threatens to erode the timberland base and diminish forest resource productivity through pressures to divert timberland to urban and other uses and through pressures to restrict or prohibit timber operations when viewed as being in conflict with nontimberland uses.
- (c) A continued and predictable commitment of timberland, and of investment capital, for the growing and harvesting of timber are necessary to ensure the long-term productivity of the forest resource, the long-term economic viability of the forest products industry, and long-term stability of local resource-based economies.

(Amended by Stats. 1990, Ch. 1600, Sec. 1.)

51102.

(a) The Legislature further declares that to fully realize the productive potential of the forest resources and timberlands of the state, and to provide a favorable climate for long-term investment in forest resources, it is the policy of this state to do all of the following:

(1) Maintain the optimum amount of the limited supply of timberland to ensure its current and continued availability for the growing and harvesting of timber and compatible uses.

(2) Discourage premature or unnecessary conversion of timberland to urban and other uses.

(3) Discourage expansion of urban services into timberland.

(4) Encourage investment in timberlands based on reasonable expectation of harvest.

(b) The Legislature further declares that it is the policy of this state that timber operations conducted in a manner consistent with forest practice rules adopted by the State Board of Forestry and Fire Protection shall not be or become restricted or prohibited due to any land use in or around the locality of those operations.

(Amended by Stats. 1998, Ch. 972, Sec. 4. Effective January 1, 1999.)

51103.

It is the intent of the Legislature to implement the policies of this chapter by including all qualifying timberland in timberland production zones.

(Added by Stats. 1982, Ch. 1489, Sec. 5.)

51104.

As used in this chapter, unless otherwise apparent from the context:

(a) "Board" means the board of supervisors of a county or city and county, whether general law or chartered, which establishes or proposes to establish a timberland production zone pursuant to this chapter.

(b) "Contiguous" means two or more parcels of land that are adjoining or neighboring or are sufficiently near to each other, as determined by the board or council, that they are manageable as a single forest unit.

(c) "Council" means the city council of a city, whether general law or chartered, which establishes or proposes to establish a timberland production zone pursuant to this chapter.

(d) "County" or "city" means the county or city having jurisdiction over the land.

(e) "Timber" means trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, including Christmas trees, but does not mean nursery stock.

(f) "Timberland" means privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

(g) "Timberland production zone" or "TPZ" means an area which has been zoned pursuant to Section 51112 or 51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, as defined in subdivision (h).

With respect to the general plans of cities and counties, "timberland preserve zone" means "timberland production zone."

(h) "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use:

(1) Management for watershed.

(2) Management for fish and wildlife habitat or hunting and fishing.

(3) A use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas.

(4) The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities.

(5) Grazing.

(6) A residence or other structure necessary for the management of land zoned as timberland production.

(i) "Parcel" means that portion of an assessor's parcel that is timberland, as defined.

(j) "Anniversary date" means the anniversary of the date on which zoning is established pursuant to Section 51112 or 51113 takes effect.

(k) "Tax rate area" means a geographical area in which there is a unique combination of tax levies.

(l) "Nonconforming use" means any use within a TPZ which lawfully existed on the effective date of zoning established pursuant to Sections 51112 and 51113, and continuing since that time, which is not a compatible use.

(Added by renumbering Section 51100 by Stats. 1982, Ch. 1489, Sec. 1.)

ARTICLE 2. Timberland Production Zones [51110 - 51119.5]

(Heading of Article 2 amended by Stats. 1982, Ch. 1489, Sec. 5.5.)

51110.

(a) On or before September 1, 1976, the assessor shall assemble a list of all parcels, regardless of size, which as of the lien date in 1976, were assessed for growing and harvesting timber as the highest and best use of the land, including all such parcels or portions thereof under agricultural preserve contracts.

(b) On or before September 1, 1976, the assessor shall notify by mail, which is certified and with return receipt requested, owners of parcels listed under subdivision (a) that their land has been included in such a list. This notice shall be substantially in the following form:

To: (name of taxpayer)

Pursuant to the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976, _____ County must provide for the zoning of land used for growing and harvesting timber as timberland preserve zone (TPZ).

A TPZ is a 10-year restriction on the use of land, and will replace the use of agricultural preserves (Williamson Act contracts) on timberland. Land use under a TPZ will be restricted to growing and harvesting timber, and to compatible uses approved by the county (or city). In return, taxation of timberland under a TPZ will be based only on such restrictions in use.

To initiate this zoning procedure, the assessor has assembled a list (list "A") of all those parcels assessed for property tax purposes for growing and harvesting timber as the highest and best use of the land as of March 1, 1976. The following parcels of your land have been included in this list "A":*[table omitted]*

If you have one or more parcels listed above which you believe have a highest and best use other than growing and harvesting timber, you must submit to the assessor a written affidavit describing the intended use you have for this parcel(s), and do so before October 1, 1976. The assessor will then designate such parcel(s) as "contested" on the final list of these parcels which is submitted to the county board of supervisors (or city council) on October 15, 1976.

A public hearing will be held prior to March 1, 1977, for the consideration of zoning your parcel(s) as TPZ. You will be given at least 20 days' notice of such hearing. Under the Timber Yield Tax Law, all noncontested parcels included in the final list "A" will be zoned as TPZ unless the owner can demonstrate to the satisfaction of a majority of the full board (or council) that at least one of the following conditions exists:

- (i) That the parcel or parcels are not capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre; or
- (ii) That the current use of the parcel has changed subsequent to March 1, 1976, and that such use is no longer the growing and harvesting of timber, and is not compatible with the growing and harvesting of timber.

Parcels designated as "contested" which appear on list "A" will be zoned as TPZ unless the owner can demonstrate to the satisfaction of a majority of the full board (or council) that it would not be in the public interest for such parcels(s) to be zoned as TPZ. Parcels in list "A" not zoned as TPZ will receive an alternate zone, if no appropriate zone currently exists. "Contested" parcels not zoned as TPZ will be valued in the future on a higher and better use of the land.

Detailed information on the TPZ zoning process and the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act in general may be obtained from your county assessor's office.

(c) Upon notification pursuant to subdivision (b) owners of parcels listed pursuant to subdivision (a) may have one or more such parcels designated as "contested" in the following manner:

On or before October 1, 1976, the owner must notify the assessor in a written affidavit that such a parcel has the highest and best use which is not a compatible use for timberland, as determined by the board or council pursuant to Section 51111, and the owner shall state the intended use for such parcel.

Upon receipt of such affidavit, the assessor shall designate such parcels on the list to be submitted to the board or council pursuant to subdivision (d) as "contested". In preparing the assessment roll for the 1977-78 fiscal year and each fiscal year thereafter, the assessor shall take into account the owner's notice of higher and better use in determining the fair market value for such parcels, if such parcels are not zoned as timberland preserve.

(d) On or before October 15, 1976, the assessor shall submit to the board or council a list of all parcels, regardless of size, which as of the lien date in 1976, are assessed for growing and harvesting timber as the highest and best use of the land, including such parcels designated as "contested" pursuant to subdivision (c). This list shall be known as "list A".

(e) On or before August 19, 1976, the State Board of Equalization shall submit to the county assessor for inclusion in list A those parcels on the board roll which are located in the county and which, as of the lien date in 1976, were assessed by the State Board of Equalization for growing and harvesting timber as the highest and best use of the land.

(Added by Stats. 1976, Ch. 176.)

51110.1.

(a) On or before September 1, 1977, the assessor shall assemble a list of all parcels, which, as of the lien date in 1976, appeared in the judgment of the assessor to constitute timberland, but which were not assessed for growing and harvesting timber as the highest and best use of the land.

(b) On or before September 1, 1977, the assessor shall notify by mail, which is certified and with return receipt requested, owners of parcels listed under subdivision (a) that their land has been included in such a list. This notice shall be substantially in the following form:

To: (name of taxpayer)

Pursuant to the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976, _____ County must provide for the zoning of land used for growing and harvesting timber as timberland preserve zone (TPZ).

A TPZ is a 10-year restriction on the use of land, and will replace the use of agricultural preserves (Williamson Act contracts) on timberland. Land use under a TPZ will be restricted to growing and harvesting timber, and to compatible uses approved by the county (or city). In return, taxation of timberland under a TPZ will be based only on such restrictions in use.

As part of this zoning procedure, the assessor has assembled a list (list "B") of all those parcels which appear to be land used for growing and harvesting timber, but which are not assessed for property tax purposes as this being the highest and best use of the land. The following parcels of your land have been included in this list "B":*[table omitted]*

A public hearing will be held prior to March 1, 1978, for the consideration of zoning your parcel(s) as TPZ. You will be given at least 20 days' notice of such hearing. Under the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act, all parcels included in this list "B" will be zoned as TPZ unless the owner can demonstrate to the satisfaction of a majority of the full board (or council) that it would not be in the public interest for such parcel(s) to be zoned as TPZ. Parcels on list "B" not zoned as TPZ will receive an alternate zone, if no appropriate zone currently exists. Detailed information on the TPZ zoning process and the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act in general may be obtained from your county assessors office.

(c) On or before October 15, 1977, the assessor shall submit to the board or council a list of all parcels, which as of the lien date in 1976, appear to constitute timberland, but which are not assessed for growing and harvesting timber as the highest and best use of the land. This list shall be known as "list B".

(d) On or before August 19, 1977, the State Board of Equalization shall submit to the county assessor, for inclusion in list B, those parcels on the board roll which are located in the county and which as of the lien date in 1976, appear to constitute

timberland, but which were not assessed by the State Board of Equalization for growing and harvesting timber as the highest and best use of the land.

(Amended by Stats. 1977, Ch. 853.)

51110.2.

The county or city planning commission shall hold a public hearing on parcels referred to it for review by the board or council pursuant to subdivision (d) of Section 51110 and subdivision (c) of Section 51110.1 according to Section 65854, and shall render its decision in the form of a written recommendation to the board or council according to Section 65855. The planning commission shall include in its recommendation to the board or council considerations as to the exact zoning boundaries to be drawn within each assessors parcel contained in list A or list B.

(Amended by Stats. 1983, Ch. 142, Sec. 61.)

51110.3.

In the event that a landowner does not receive notice pursuant to subdivision (b) of Section 51110.1, such owner may prior to January 1, 1978, petition directly to the board or council to have a parcel owned by such person included on list "B." Such owner must be able to demonstrate that on each such parcel a plan for forest management has been prepared, or approved as to content, by a registered professional forester prior to October 15, 1977. Such plan shall provide for the harvest of timber within a reasonable period of time, as determined by the preparer of the plan.

In the event that the board or council finds that the parcel does in fact have plans for forest management signed by a registered professional forester prior to October 15, 1977, the board or council shall include the parcel listed in the petition on list "B" without respect to acreage or size and shall consider these parcels under subdivision (c) of Section 51112.

(Added by Stats. 1977, Ch. 853.)

51111.

On or before October 1, 1976, the board or council shall adopt a list and a detailed description of additional compatible uses for parcels zoned as timberland production.

(Amended by Stats. 1984, Ch. 678, Sec. 2.)

51112.

(a) On or before March 1, 1977, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list A submitted by the assessor pursuant to subdivision (d) of Section 51110 which are not designated as "contest," unless it finds by a majority vote of the full body that a parcel or parcels are not devoted to and used for growing and harvesting timber or for growing and harvesting timber and compatible uses.

The basis for such a finding is limited to either of the following:

- (1) The parcel is not in fact capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre;
 - (2) The use of the parcel has changed subsequent to the lien date in 1976, and that such use no longer meets the definition of timberland, or of compatible uses as defined and as adopted by the board or council pursuant to Section 51111.
- (b) On or before March 1, 1977, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list A which are designated as "contested" pursuant to subdivision (c) of Section 51110, except those parcels which it finds by a majority vote of the full body to be in the public interest to exclude from such a zone.
- (c) On or before March 1, 1978, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list B submitted by the assessor pursuant to subdivision (c) of Section 51110.1, except those parcels which it finds by a majority vote of the full body to be in the public interest to exclude from such a zone.
- (d) On parcels excluded from the timberland production zone under this section, the board or council shall apply an alternate zone which is in conformance with the county general plan and whose primary use is other than timberland, if no such appropriate zone currently applies to such parcels.
- (e) The owner of the land shall be given written notice at least 20 days prior to the hearing of the board or council, and notice of hearing shall be published pursuant to Section 6061 of this code, and shall include a legal description, or the assessor's parcel number, of the land which is proposed to be included within the timberland production zone.

(Amended by Stats. 1984, Ch. 678, Sec. 3.)

51113.

- (a) (1) An owner may petition the board or council to zone his or her land as timberland production. The board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels submitted to it by petition pursuant to this section, which meet all of the criteria adopted pursuant to subdivision (c). Any owner who has so petitioned and whose land is not zoned as timberland production may petition the board or council for a rehearing on the zoning.
- (2) This section shall not be construed as limiting the ability of the board or council to zone as timberland production any parcel submitted upon petition that is timberland, defined pursuant to subdivision (f) of Section 51104, and which is in compliance with the compatible use ordinance adopted by the board or council pursuant to Section 51111.
- (b) The board or council, on or before March 1, 1977, by resolution, shall adopt procedures for initiating, filing, and processing petitions for timberland production zoning and for rezoning. The rules shall be applied uniformly throughout the county or city.

(c) On or before March 1, 1977, the board or council by ordinance shall adopt a list of criteria required to be met by parcels being considered for zoning as timberland production under this section. The criteria shall not impose any requirements in addition to those listed in this subdivision and in subdivision (d). The following shall be included in the criteria:

(1) A map shall be prepared showing the legal description or the assessor's parcel number of the property desired to be zoned.

(2) A plan for forest management shall be prepared or approved as to content, for the property by a registered professional forester. The plan shall provide for the eventual harvest of timber within a reasonable period of time, as determined by the preparer of the plan.

(3) (A) The parcel shall currently meet the timber stocking standards as set forth in Section 4561 of the Public Resources Code and the forest practice rules adopted by the State Board of Forestry and Fire Protection for the district in which the parcel is located, or the owner shall sign an agreement with the board or council to meet those stocking standards and forest practice rules by the fifth anniversary of the signing of the agreement. If the parcel is subsequently zoned as timberland production under subdivision (a), failure to meet the stocking standards and forest practice rules within this time period provides the board or council with a ground for rezoning of the parcel pursuant to Section 51121.

(B) Upon the fifth anniversary of the signing of an agreement, the board shall determine whether the parcel meets the timber stocking standards in effect on the date that the agreement was signed. Notwithstanding the provisions of Article 4 (commencing with Section 51130), if the parcel fails to meet the timber stocking standards, the board or council shall immediately rezone the parcel and specify a new zone for the parcel, which is in conformance with the county general plan and whose primary use is other than timberland.

(4) The parcel shall be timberland, as defined in subdivision (f) of Section 51104.

(5) The parcel shall be in compliance with the compatible use ordinance adopted by the board or council pursuant to Section 51111.

(d) The criteria required by subdivision (c) may also include any or all of the following:

(1) The land area concerned shall be in the ownership of one person, as defined in Section 38106 of the Revenue and Taxation Code, and shall be comprised of single or contiguous parcels of a certain number of acres, not to exceed 80 acres.

(2) The land shall be a certain site quality class or higher under Section 434 of the Revenue and Taxation Code, except that the parcel shall not be required to be of the two highest site quality classes.

(Amended by Stats. 1998, Ch. 972, Sec. 5. Effective January 1, 1999.)

51113.5.

(a) After March 1, 1977, an owner with timberlands in a timberland production zone pursuant to Section 51112 or 51113 may petition the board or council to add to his or her timberland production lands that meet the criteria of subdivisions (f) and (g) of Section 51104 and that are contiguous to the timberland already zoned as timberland production. Section 51113 shall not apply to these lands.

(b) In the event of land exchanges with, or acquisitions from, a public agency in which the size of an owner's parcel or parcels zoned as timberland production pursuant to Section 51112 or 51113 is reduced, the timberland production shall not be removed from the parcel except pursuant to Section 51121 and except for a cause other than the smaller parcel size.

(Amended by Stats. 1982, Ch. 1489, Sec. 7.)

51114.

Parcels zoned as timberland production shall be zoned as such for an initial term of 10 years. On the first and each subsequent anniversary date of the initial zoning, a year shall be added to the initial term of 10 years, unless a notice of rezoning is given as provided in Section 51120.

(Amended by Stats. 1982, Ch. 1489, Sec. 8.)

51115.

Parcels zoned as timberland production shall be zoned so as to restrict their use to growing and harvesting timber and to compatible uses. The growing and harvesting of timber on those parcels shall be regulated solely pursuant to state statutes and regulations.

(Amended by Stats. 1984, Ch. 1009, Sec. 1.3.)

51115.1.

(a) The zoning of a parcel pursuant to this chapter shall give rise to a presumption that timber operations, as defined in Section 4527 of the Public Resources Code, may reasonably be expected to and will occur on that parcel.

(b) The Legislature hereby declares that the enactment of this section is intended to make clear that the zoning of a parcel pursuant to this chapter is an indication that timber operations are expected to occur on that parcel at a future date. The Legislature further declares that this section is not intended and shall not be construed as altering any substantive or procedural requirement of Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code, or of any rule or regulation adopted pursuant thereto.

(Added by Stats. 1982, Ch. 1418, Sec. 1.)

51115.2.

(a) Changes or additions to any nonconforming use shall be limited to ordinary maintenance and repair, except that no change or addition which enlarges or tends to make more permanent any nonconforming use shall be permitted.

(b) If any nonconforming use ceases for a period of one year or more, use subsequent to the cessation shall comply with this chapter.

(Added by Stats. 1982, Ch. 1489, Sec. 10.)

51115.5.

(a) Notwithstanding any other provision of law, timber operations conducted within a timber production zone pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Division 4 of the Public Resources Code) shall not constitute a nuisance, private or public.

(b) This section is not applicable with respect to any timber operation which (1) endangers public health or public safety or (2) prohibits the free passage or use of any navigable lake, river, bay, stream, canal, or basin, or any public park, street, or highway.

(c) For purposes of this section, the term "timber operation" means the cutting, removal, or both, of timber or other wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to, construction and maintenance of roads, fuel breaks, fire breaks, stream crossings, landings, skid trails, beds for falling trees, fire hazard abatement, and preparation, transportation, and delivery of timber and other wood products to market.

(Added by Stats. 1982, Ch. 1489, Sec. 11.)

51116.

The county or city may bring any action in court necessary to prohibit a use not permitted with respect to land zoned as timberland production, including, but not limited to, an action to enforce the zoning restrictions by specific performance or injunction.

(Amended by Stats. 1982, Ch. 1489, Sec. 12.)

51117.

When land is zoned as timberland production or subsequently rezoned from a timberland production zone and after exhaustion of appeals, a notice of timberland production zone status, together with a map and assessor's parcel numbers describing such land, shall be filed for record by the city or county in the recorder's office. The notice and map shall become a part of the official records of the county recorder upon its acceptance by him for filing. The filing for record of a notice of timberland production, together with a map and assessor's parcel numbers describing the land, shall impart constructive notice thereof.

(Amended by Stats. 1982, Ch. 1489, Sec. 13.)

51118.

Land zoned as timberland production under this chapter shall be enforceably restricted within the meaning of Section 3(j) of Article XIII of the Constitution and the restriction shall be enforced and administered by the city or county in a manner to accomplish the purposes of that section and this chapter.

(Amended by Stats. 1982, Ch. 1489, Sec. 14.)

51119.

Any action of the board or council undertaken to zone a parcel as timberland production pursuant to Section 51112 or 51113 is exempt from the requirements of Section 21151 of the Public Resources Code.

(Amended by Stats. 1982, Ch. 1489, Sec. 15.)

51119.5.

Parcels zoned as timberland production under this chapter may not be divided into parcels containing less than 160 acres unless the original owner prepares a joint timber management plan prepared or approved as to content by a registered professional forester for the parcels to be created. The joint timber management plan shall provide for the management and harvesting of timber by the original and any subsequent owners, and shall be recorded with the county recorder as a deed restriction on all newly created parcels. The deed restriction shall run with the land rather than with the owners, and shall remain in force for a period of not less than 10 years from the date division is approved by the board or council. The division shall be approved only by a four-fifths vote of the full board or council, and only after recording of the deed restriction.

(Amended by Stats. 1982, Ch. 1489, Sec. 16.)

ARTICLE 3. Rezoning [51120 - 51121]

(Article 3 added by Stats. 1976, Ch. 176.)

51120.

(a) If the owner desires in any year to rezone a parcel from its current timberland production zone, the owner shall give written notice, naming the new zone desired, and shall follow procedures established pursuant to Sections 65854 to 65857, inclusive. Unless the written notice is given at least 90 days prior to the anniversary date of initial zoning, the zoning term shall be deemed extended.

(b) Within 120 days of receipt of the written notice of an owner's desire to rezone a parcel, the board or council, after a public hearing, shall rule on the request for rezoning.

(c) The board or council by a majority vote of the full body may remove the parcel from the timberland production zone and shall specify a new zone for the parcel.

(d) The new zone approved pursuant to subdivision (c) shall become effective 10 years from the date of approval. Upon rezoning the parcel shall be valued pursuant to Section 426 of the Revenue and Taxation Code, in the same manner as if a restriction were terminated as provided for in Section 51091 or 51245.

(e) If the board or council denies the owner's request for change of zone pursuant to subdivision (b), the owner may petition for a rehearing.

(Amended by Stats. 1982, Ch. 1489, Sec. 17.)

51121.

(a) If the board or council after public hearing and by a majority vote of the full body desires in any year not to extend the term of zoning, the county or city shall

give written notice of its intent to rezone following procedures established pursuant to subdivision (b) of Section 51113. A proposed new zone shall be specified. Unless the written notice is given at least 90 days prior to the anniversary date of the initial zoning, the zoning term shall be deemed extended.

(b) Upon receipt by the owner of a notice of intent to rezone from the county or city, the owner may make written protest of the notice and may appeal to the board or council within 30 days of notice from the county or city. The board or council may at any time prior to the anniversary date withdraw the notice of intent to rezone.

(c) The board or council shall hold a public hearing on the proposed change and by a majority vote of the full body may reaffirm its intent to change the zoning and specify a new zone.

(d) A new zone of a parcel shall be effective 10 years from the date of the reaffirmation vote pursuant to subdivision (c). Upon rezoning the parcel shall be valued pursuant to Section 426 of the Revenue and Taxation Code.

(e) The owner may petition to be reheard.

(Amended by Stats. 1977, Ch. 853.)

ARTICLE 4. Immediate Rezoning [51130 - 51134]

(Article 4 added by Stats. 1976, Ch. 176.)

51130.

The purpose of this article is to provide relief from zoning as timberland production pursuant to this chapter only when the continued use of land in the timberland production zone is neither necessary nor desirable to accomplish the purposes of Section 3(j) of Article XIII of the Constitution and of this chapter.

(Amended by Stats. 1982, Ch. 1489, Sec. 18.)

51131.

A timberland production zone may not be immediately rezoned except pursuant to a request by a landowner, and as provided in this article.

(Amended by Stats. 1982, Ch. 1489, Sec. 19.)

51133.

(a) If application for conversion is required pursuant to Section 4621 of the Public Resources Code, the board or council may tentatively approve the immediate rezoning after notice and hearing and only if by a four-fifths vote of the full body, and all of the following occur:

(1) A public hearing is held with notice of the hearing being given to all owners of lands situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.

(2) The board or council makes written findings that immediate rezoning is not inconsistent with the purposes of subdivision (j) of Section 3 of Article XIII of the California Constitution and of this chapter.

(3) The board or council makes written findings that immediate rezoning is in the public interest.

(b) The board or council shall forward its tentative approval to the State Board of Forestry and Fire Protection, together with the application for immediate rezoning, a summary of the public hearing and any other information required by the State Board of Forestry and Fire Protection. The State Board of Forestry and Fire Protection shall consider the tentative approval pursuant to Section 4621.2 of the Public Resources Code. Final approval to an immediate rezoning is given only if the State Board of Forestry and Fire Protection has approved conversion pursuant to Section 4621.2 of the Public Resources Code. Upon final approval of conversion, the State Board of Forestry and Fire Protection shall notify the board or council of the approval, and the board or council shall remove the parcel from the timberland production zone and shall specify a new zone for the parcel.

(Amended by Stats. 1998, Ch. 972, Sec. 6. Effective January 1, 1999.)

51134.

(a) If an application for conversion is not required pursuant to Section 4621 of the Public Resources Code, the board or council may approve the immediate rezoning request only if by a four-fifths vote of the full board or council it makes written findings that all of the following exist:

(1) The immediate rezoning would be in the public interest.

(2) The immediate rezoning does not have a substantial and unmitigated adverse effect upon the continued timber-growing use or open-space use of other land zoned as timberland production and situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.

(3) The soils, slopes, and watershed conditions will be suitable for the uses proposed by the applicant if the immediate rezoning is approved.

(4) The immediate rezoning is not inconsistent with the purposes of subdivision (j) of Section 3 of Article XIII of the Constitution and of this chapter.

(b) The existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for granting a request for immediate rezoning pursuant to this section. Immediate rezoning shall be considered only if there is no proximate and suitable land which is not zoned as timberland production for the alternate use not permitted within a timberland production zone.

(c) The uneconomic character of the existing use shall not be sufficient reason for the approval of immediate rezoning pursuant to this section. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put.

(d) Immediate rezoning action shall comply with all the applicable provisions of state law and local ordinances.

(e) The county or city may require the payment of a fee by the landowner for the cost of processing the application and recording the necessary documentation.

(Amended by Stats. 1982, Ch. 1489, Sec. 21.)

ARTICLE 5. Removal from Zone [51140 - 51146]

(Article 5 added by Stats. 1976, Ch. 176.)

51140.

Upon rezoning, the board or council shall certify the rezoning indicating the new zone and its effective date.

(Added by Stats. 1976, Ch. 176.)

51141.

A copy of the certification of rezoning together with the map and assessor's parcel numbers for the rezoned land shall be recorded by the city or county in the recorder's office in the same manner as deeds are recorded, and commencing on the lien date next following the effective date of the new zone, such land shall be assessed on the same basis as real property is assessed generally in that county. The assessor may require a description of the portion of the property rezoned as provided in Section 456 of the Revenue and Taxation Code.

(Added by Stats. 1976, Ch. 176.)

51142.

(a) Upon immediate rezoning of a parcel in a timberland production zone, a tax recoupment fee shall be imposed on the owner of the land. Within 90 days following rezoning of land in the timberland production zone the county assessor shall reassess the rezoned parcels on the basis of the value of the property in its rezoned use. The assessor shall certify this value to the owner of the land and to the county auditor. The owner may appeal this new valuation in the same manner as an assessment appeal. The application for an appeal shall be filed with the clerk no later than 60 days after the date of the mailing of the notice certifying the new valuation. Except when under an appeal, after the certification the auditor shall, in cases of immediate rezoning, within 10 days compute the tax recoupment fee and certify the amount to the tax collector. The tax collector shall notify the owner in writing of the amount and due date of the fee. Fees shall be due 60 days after mailing of notification.

(b) The tax recoupment fee shall apply only in cases of immediate rezoning and shall be a multiple of the difference between the amount of the tax last levied against the property when zoned as timberland production and the amount equal to the assessed valuation of the rezoned property times the tax rate of the current levy for the tax rate area, that multiple to be chosen from the following table according to subdivision (c): *[table omitted]*

(c) The multiple shall correspond to the number of years or fraction thereof, but in no event greater than 10, for which the land was zoned as timberland production or was subject to a contract under Chapter 7 (commencing with Section 51200).

(d) Tax recoupment fees imposed pursuant to this section shall be due and payable to the county in which the rezoning has taken place.

(e) In cases of immediate rezoning, an owner may submit a written application, requesting the waiver of tax recoupment fees and explaining the reasons therefor, to either the State Board of Equalization or, where the county board of supervisors has adopted an authorizing resolution, to the county board of supervisors. The

board receiving an application pursuant to this subdivision may, if it determines that it is in the public interest, waive all or any portion of the fees.

(Amended by Stats. 2001, Ch. 407, Sec. 1. Effective January 1, 2002.)

51146.

A fee imposed under this article shall be indicated on the assessment roll and when so indicated shall become a lien against the parcel of land in the same manner as county general taxes.

(Added by Stats. 1976, Ch. 176.)

ARTICLE 6. Eminent Domain or Other Acquisition [51150 - 51155]

(Article 6 added by Stats. 1977, Ch. 853.)

51150.

It is the policy of the state to avoid, whenever practicable, the location of any state or local public improvements and any improvements of public utilities, and the acquisition of land therefor, in timberland production zones.

(Amended by Stats. 1982, Ch. 1489, Sec. 23.)

51151.

(a) As used in this section, Section 51152, and Section 51155, "public agency" means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and "person" means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within a timberland production zone (TPZ) may be required by a public agency or person for a public use, the public agency or person shall advise the Secretary of Resources and the local governing body responsible for the administration of the land of the intention to consider the location of a public improvement within the TPZ.

Within 30 days thereafter the Secretary of Resources and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the TPZ and those comments shall be considered by the public agency or person. Failure of any public agency or person to comply with the requirements of this section shall invalidate any action by the agency or person to locate a public improvement within a TPZ. This subdivision does not apply to the erection, construction, alteration or maintenance of gas, electric, water, or communication transmission facilities within a TPZ if that TPZ was established after submission of the location of the facilities to the city or county for review or approval.

(Amended by Stats. 1982, Ch. 1489, Sec. 24.)

51152.

(a) No public agency or person shall locate a public improvement within a timberland production zone (TPZ) based primarily on a consideration of the lower cost of acquiring a land in a TPZ.

(b) No public agency or person shall acquire timberland zoned as timberland production pursuant to this chapter for any public improvement if there is other land within or outside the TPZ on which it is reasonably feasible to locate the public improvement.

(Amended by Stats. 1982, Ch. 1489, Sec. 25.)

51153.

Section 51152 shall not apply to:

(a) The location or construction of improvements where the board or council administering the TPZ approves or agrees to the location thereof.

(b) The acquisition of easements within a TPZ by the board or council administering the TPZ.

(c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.

(d) Public works required for fish and wildlife enhancement and preservation.

(e) Improvements for which the site or route has been specified by the Legislature in such a manner as to make it impossible to avoid the acquisition of land under contract.

(f) All state highways on routes as described in Sections 301 to 622, inclusive, of the Streets and Highways Code, as those sections read on October 1, 1965.

(g) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12934 of the Water Code, except facilities under paragraph (6) of said subdivision (d).

(h) Land upon which condemnation proceedings have been commenced prior to July 1, 1977.

(Added by Stats. 1977, Ch. 853.)

51154.

Section 51152 shall be enforceable only by mandamus proceedings by the local governing body administering the timberland production zone or the Secretary of Resources. However, as applied to condemnors whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51152 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against him.

(Amended by Stats. 1982, Ch. 1489, Sec. 26.)

51155.

When any action in eminent domain for the condemnation of the fee title of an entire parcel of land zoned as timberland production is filed or when that land is acquired in lieu of eminent domain for a public agency or person or whenever there is any such action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal

government, the parcel shall be deemed immediately rezoned (pursuant to Section 51130) as to the land actually being condemned or so acquired as of the date the action is filed and for the purposes of establishing the value of the land, the timberland production zone (TPZ) shall be deemed never to have existed.

Upon the termination of such a proceeding, the parcel shall be immediately rezoned for all land actually taken or acquired.

When an action to condemn or acquire less than all of a parcel of land subject to a TPZ is commenced, the parcel shall be deemed immediately rezoned as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to the TPZ will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the TPZ.

When an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to a TPZ is commenced, the parcel shall be deemed immediately rezoned as to that interest and for the purpose of establishing the value of that interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the TPZ will be adversely affected, in which case the value of that damage shall be computed without regard to the TPZ.

The land actually taken shall be removed from the TPZ. Under no circumstances shall land be removed that is not actually taken, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the parcel may be immediately rezoned with respect to the remaining portion or interest upon petition of either party, and pursuant to the provisions of Article 4 (commencing with Section 51130).

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the TPZ is continued on the remaining portion or interest in the land may satisfy the requirements of subdivisions (a), (b), and (c) of Section 51134, and subdivisions (a), (b), and (c) of Section 4621.2 of the Public Resources Code.

(Amended by Stats. 1983, Ch. 1281, Sec. 5. Effective September 30, 1983.)