

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.bof.fire.ca.gov
(916) 653-8007



June XX, 2017

RE: Request to Counties and Board of Supervisors to Appoint Authorized Designee to Review and Approve, if warranted, Less Than 3 Acre Conversion Exemptions

Dear County Representatives,

The issue of conversion of timberland for the purposes of cannabis cultivation has been surfacing in the forum of the Board of Forestry and Fire Protection (Board) over the course of the last several years.

The Board is authorized by law to adopt, amend and repeal regulations to implement, make specific and interpret statute¹. Specifically, the Board has developed and maintains the Forest Practice Rules, which, in addition to statute, regulate timber operations on timberlands² in California. The intent of these rules is to create a comprehensive and effective system of prescriptive and performance based regulations to ensure timber productivity, sustained yield of timber, and that due consideration is given to watershed, recreation, wildlife, range, aesthetic, fishery values, and carbon sequestration.

The conversion of timberland to a use other than growing timber requires, prior to conversion, a Timberland Conversion Permit (or its equivalent) to be approved by CAL FIRE³ or, if eligible, a Less Than 3 Acre Conversion Exemption (Exemption) to be accepted by CAL FIRE⁴.

The Board strives to cooperate with local, federal, and other state entities to prevent the duplication of efforts and to complement efforts to conserve them. In this context, the Board, pursuant to section (§) 1104.1(a)(1)(D) of title 14 of the California Code of Regulations (14 CCR), acknowledges the importance of county participation in land use decision making by giving counties the opportunity to determine that the proposed timberland conversion is in conformance with all county regulatory requirements through the incorporation of a signed and dated statement from the authorized designee of the County Board of Supervisors. When counties do not have an authorized designee, the county relinquishes this opportunity and it falls to the Registered Professional Forester (RPF) who must certify that the county has been contacted and the conversion is in conformance with county regulatory requirements. RPFs have communicated that this determination has been challenging because they may work in multiple counties, each of which may have different regulatory requirements. Correspondingly, CAL FIRE does not have the personnel to know the current regulatory requirements of each of the 58 counties in the State.

Consequently, the Board encourages County Board of Supervisors, if they have not already done so, to appoint an authorized designee, to compel land use to conform to county regulatory requirements. Recently chaptered laws⁵ regarding medical and recreational cannabis cultivation, as well as comments received by the Board in respect to cannabis cultivation, has motivated the Board to reach out to counties to convey that local

¹ Appendix 1. Board authority to adopt, amend and repeal regulations to implement, make specific and interpret statute, specific to forest practice pursuant to PRC § 4551 and fire protection pursuant to PRC § 4111.

² Appendix 2. Definition of timberland and timber operations pursuant to PRC §§ 4526 and 4527.

³ Appendix 3. Description of the application for conversion pursuant to PRC §§ 4621, 4621.2 and 4622 and 14 CCR §§ 1100-1104.

⁴ Appendix 4. Description of the less than 3 acre conversion exemption pursuant to PRC § 4584(g)(1), 14 CCR § 1104.1, summary, and form.

⁵ Appendix 5. Medical marijuana statute referencing Board Health and Safety Code (HSC) § 11362.769

The Board's mission is to lead California in developing policies and programs that serve the public interest in environmentally, economically, and socially sustainable management of forest and rangelands, and a fire protection system that protects and serves the people of the state.

jurisdictions, under existing Board regulations, have the opportunity to verify that project applicants have demonstrated a legitimate *bona fide* intent to convert land to a use other than growing timber⁶ that conforms with county regulatory requirements.

For several years, the Board has been conducting outreach on the conversion of timberland to cultivate cannabis. In October of 2013, the Board organized a symposium on cannabis and in September of 2016 the Board held a special workshop on cannabis cultivation and Exemptions, during which the issue of county appointment of an authorized designee to review Exemptions was identified as an integral component of Exemption review that may be underutilized. Additionally, CAL FIRE has responded with education of timberland owners, RPFs and LTOs to prevent illegal conversions and enforcement to gain compliance where violations have been identified.

The primary issues that have been raised, related to marijuana cultivation on timberland, have been environmental impacts and threat to public safety. There has been an exponential increase in number and size of grow operations, thereby escalating the environmental impacts and threat to public safety. Consequently, agency resources are drained to monitor compliance, deliver services and provide enforcement, thereby depriving other programs of agency resources.

Environmental impacts have been observed to be severe, pervasive in localized areas, and long lasting. Environmental impacts include:

- Water diversions and water storage that cause environmental damage.
- Water diversions appear to decrease summer base flows that impact downstream water users, since cannabis cultivation often occurs in the headwaters affecting water resources at their source.
- Heightened stress on aquatic species from erosion and sedimentation from extended and increased use of seasonal roads.
- Habitat loss and habitat fragmentation and inappropriate use of fertilizers and pesticides impact sensitive species.
- Improper storage of fertilizers, pesticides, oil, diesel and gasoline cause environmental damage.
- Improper soil stabilization causes sediment to enter watercourses that degrade water quality and impact fish habitat.
- Deficient slash cleanup increases the risk of catastrophic wildfire.

The dynamics that threaten public safety include:

- Violence, associated with crop protection, has resulted in fatalities and serious injury.
- Inappropriate use of fertilizers and pesticides has impacted the quality of domestic water.
- Accumulations of human waste and garbage.
- Improper fire clearance, substandard wiring and outdoor refuse burning, associated with grow encampments, increase the risk of catastrophic wildfire.

The Board appreciates the challenges counties face regarding land use, particularly regarding cannabis cultivation. Appointment of an authorized designee is a mechanism for counties to increase control over land use pursuant to its own regulations and support an ounce of prevention to benefit from a pound of cure.

If you have any questions or comments regarding this letter, please contact the Board's Executive Officer, Matt Dias at matt.dias@bof.ca.gov or 916-653-8007.

Sincerely,

J. KEITH GILLESS
Chair
California Board of Forestry and Fire Protection
Encl/ Appendix

⁶ Appendix 6. Regulatory requirements regarding intent to convert land to a use other than growing timber pursuant to PRC § 4623 and 14 CCR §§ 1100(b), 1104.1(a)(1)(E)(2.), 1104.1(a)(6) and 1105.2.

CC:

Appendix 1. Board authority to adopt, amend and repeal regulations to implement, make specific and interpret statute, specific to forest practice in PRC § 4551 and fire protection in PRC § 4111.

PRC § 4551.

(a) The board shall adopt district forest practice rules and regulations for each district in accordance with the policies set forth in Article 1 (commencing with Section 4511) of this chapter and pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources, including, but not limited to, streams, lakes, and estuaries.

(b) (1) The board shall ensure that its rules and regulations that govern the harvesting of commercial tree species, where applicable, consider the capacity of forest resources, including above ground and below ground biomass and soil, to sequester carbon dioxide emissions sufficient to meet or exceed the state's greenhouse gas reduction requirements for the forestry sector, consistent with the scoping plan adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(2) The costs of the contracts for research studies or technical analyses initiated by the board or the department to comply with paragraph (1) shall be funded, upon appropriation by the Legislature, from fee revenues collected pursuant to Section 38597 of the Health and Safety Code.

PRC § 4111

The board shall make and enforce such regulations as are necessary and proper for the organization, maintenance, government, and direction of the fire protective system for the prevention and suppression of forest fires which is provided for in this article.

Appendix 2. Definition of Timberland and Timber Operations pursuant to PRC §§ 4526 and 4527.

PRC § 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.

PRC § 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.

(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 paragraph (9) of subdivision (j) of Section 4584.

Appendix 3. Description of the application for conversion pursuant to PRC §§ 4621, 4621.2 and 4622 and 14 CCR §§ 1100 to 1104.

PRC § 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.

PRC § 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.

PRC § 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.

14 CCR § 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: Section 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 Section 1105.2. (Reference: Section 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: Sections 4526 and 30243, Public Resources Code.)

(d) "Coastal Zone" means those lands defined in PRC § 30103. (Reference: Section 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: Sections 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: Section 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: Sections 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: Sections 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 Section 51130) of Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code. (Reference: Section 4526, Public Resources Code; Section 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 Section 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: Section 4526, Public Resources Code; Section 51104(f), Government Code.)

(n) "Timberland Production Zone" or "TPZ" means timberland production zone as defined in Gov. C. 51104(g).

(Reference: Section 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.

14 CCR § 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 Section 4511) of Part 2, Division 4 of the Public Resources Code; the Environmental Quality Act of 1970, contained in Division 13 (commencing with Section 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 Section 51100) or Part 1, Division 1, Title 5 of the Government Code; the California Coastal Act of 1976, contained in Division 20 (commencing with Section 30000) of the Public Resources Code; and the Public Records Act, contained in Chapter 3.5 (commencing with Section 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.

14 CCR § 1102. Authority Delegated to Director.

The Board delegates its authority and responsibilities to the Director for administration of Article 9 (commencing with Section 4621) of Chapter 8, Part 2, Division 4 of the Public Resources Code, and Article 4 (commencing with Section 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.

14 CCR § 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 Section 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

14 CCR § 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 Section 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.

14 CCR § 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 Section 6250) of Division 7, Title 1 of the Government Code.

14 CCR § 1104. Operations Requiring Conversion Permit.

Except as exempted by Sections 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 Section 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.

Appendix 4. Description of the less than 3 acre conversion exemption pursuant to PRC § 4584(g)(1), 14 CCR § 1104.1, summary, and form.

PRC § 4584.

Upon determining that this exemption is consistent with the purposes of this chapter, the board may exempt from this chapter, or portions of this chapter, a person engaged in forest management whose activities are limited to any of the following:

(g) (1) The one-time conversion of less than three acres to a nontimber use. A person, whether acting as an individual, as a member of a partnership, or as an officer or employee of a corporation or other legal entity, shall not obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has as a member, or if a corporation or 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, 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 subdivision, means an individual, partnership, corporation, or other legal entity.

(2) (A) Notwithstanding Section 4554.5, the board shall adopt regulations that do all of the following:

(i) Identify the required documentation of a bona fide intent to complete the conversion that an applicant will need to submit in order to be eligible for the exemption in paragraph (1).

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

(iii) Require the exemption pursuant to this subdivision to expire if there is a change in timberland ownership. The person who originally submitted an application for an exemption pursuant to this subdivision shall notify the department of a change in timberland ownership on or before five calendar days after a change in ownership.

(iv) The board may adopt regulations allowing a waiver of the five-year limitation described in paragraph (1) upon finding that the imposition of the five-year limitation would impose an undue hardship on the applicant for the exemption. The board may adopt a process for an appeal of a denial of a waiver.

(B) The application form for the exemption pursuant to paragraph (1) shall prominently advise the public that a violation of the conversion exemption, including a conversion applied for in the name of someone other than the person or entity implementing the conversion in bona fide good faith, is a violation of this chapter and penalties may accrue up to ten thousand dollars (\$10,000) for each violation pursuant to Article 8 (commencing with Section 4601).

14 CCR § 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. 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 14CCR 1104.1(a)(6) that there is "bona fide intent", as defined in 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. Responsibility for treatment of logging slash and woody debris may be assumed by the landowner, provided that the landowner acknowledges in writing to the Director at the time of notice such responsibility and specific slash and woody debris treatment requirements and timing.

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 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 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.
- (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 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 895.1 notifying them of the intent to harvest timber. The mailed letter of notice and the posted notice shall contain 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 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 5 calendar 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 15 days prior to the sale of the timberland of the requirements under 14CCR 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 stocking requirements of 14CCR 1104.1(a)(2)(B);
 - c. dispose of the slash created under the exemption activities according to 14CCR 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 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.

SUMMARY

The current process, associated with the acceptance of three (3) acre conversion exemption notice(s) (Notice) is ministerial. A RPF must prepare a Notice, on a form provided by the Department of Forestry and Fire Protection (the Department) to facilitate the provision of information pursuant to the Board's rules (14 CCR § 1104). This includes certification that there is a bona fide intent to convert, specifically what the land is being converted to and that a letter of notice of intent to harvest timber has been mailed to all adjacent landowners within 300 feet of the boundaries of the exemption. Additionally, the RPF must certify that, if the County Board of Supervisors has not designated a representative authorized to make a declaration that the conversion exemption is in conformance with all county regulatory requirements that the responsibility falls to the RPF or the RPF's supervised designee, who must certify that the County has been contacted and the Notice is in conformance with county regulations.

FORM

The LESS THAN 3 ACRE CONVERSION EXEMPTION FORM can be downloaded from the following site:

http://calfire.ca.gov/resource_mgt/resource_mgt_EPRP_TimberlandConversions

Appendix 5. Medical marijuana statute referencing Board HSC § 11362.769.

HSC § 11362.769.

Indoor and outdoor medical cannabis cultivation shall be conducted in accordance with state and local laws. State agencies, including, but not limited to, the Department of Food and Agriculture, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical cannabis cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

Appendix 6. Regulatory requirements regarding intent to convert land to a use other than growing timber pursuant to PRC § 4623 and 14 CCR §§ 1100(b), 1104.1(a)(1)(E)(2.), 1104.1(a)(6) and 1105.2.

PRC § 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.

14 CCR §§ 1100(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 Section 1105.2. (Reference: Section 4623, Public Resources Code.)...

14 CCR 1104.1(a)(1)(E)(2.)

...certifying that after considering the owner's own economic ability to carry out the proposed conversion and the feasibility evaluation required by 14CCR 1104.1(a)(6) that there is "bona fide intent", as defined in CCR 1100(b), to convert,...

14 CCR 1104.1(a)(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:...

14 CCR 1105.2.

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.