

Z'BERG-NEJEDLY FOREST PRACTICE ACT

with
Pertinent Excerpts from
PROTECTION OF FOREST, RANGE AND FORAGE LANDS -
PROHIBITED ACTIVITIES
and the
WILD AND SCENIC RIVERS ACT;
the
PROFESSIONAL FORESTERS LAW and REGISTRATION OF PROFESSIONAL
FORESTERS RULES,
and with information related to
FOREST ROADBED MATERIALS

Prepared for:
California Licensed Timber Operators
and California Registered Professional Foresters

Compiled by:
The California Department of Forestry and Fire Protection
Resource Management, Forest Practice Program
P.O. Box 944246
Sacramento, CA 94244-2460

See Also, CDF Web Site's Home Page, at www.fire.ca.gov

Gray Davis
Governor
State of California

Mary D. Nichols
Secretary for Resources
The Resources Agency

Andrea E. Tuttle
Director
California Department of Forestry
and Fire Protection

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DISCLAIMER

This presentation of the Forest Practice Act is intended to provide field personnel with working rules for their use. It is not intended to be authoritative. The official web site for any California law or rule is www.leginfo.ca.gov/calaw.html.

Please Note: The underlined sections of the rules are those that were adopted, corrected or amended since the 2002 edition of this rulebook. The California Department of Forestry and Fire Protection has benefited from the observations of readers who have cited errors in earlier editions. Your comments in that area are appreciated.

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Z'BERG-NEJEDLY FOREST PRACTICE ACT

Division 4, Chapter 8, Public Resources Code Effective January 1, 2003

Article 1. General Provisions

4511. This chapter shall be known as the Z'berg-Nejedly Forest Practice Act of 1973.

4512. Findings and declarations.

(a) The Legislature hereby finds and declares that the forest resources and timberlands of the state are among the most valuable of the natural resources of the state and that there is great concern throughout the state relating to their utilization, restoration, and protection.

(b) The Legislature further finds and declares that the forest resources and timberlands of the state furnish high-quality timber, recreational opportunities, and aesthetic enjoyment while providing watershed protection and maintaining fisheries and wildlife.

(c) The Legislature thus declares that it is the policy of this state to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products, while giving consideration to the public's need for watershed protection, fisheries and wildlife, and recreational opportunities alike in this and future generations.

(d) It is not the intent of the Legislature by the enactment of this chapter to take private property for public use without payment of just compensation in violation of the California and United States Constitutions.

4513. Intent of Legislature. It is the intent of the Legislature to create and maintain an effective and comprehensive system of regulation and use of all timberlands so as to assure that:

(a) Where feasible, the productivity of timberlands is restored, enhanced, and maintained.

(b) The goal of maximum sustained production of high-quality timber products is achieved while giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment.

4514. Limitations of powers and rights. No provision of this chapter or any ruling, requirement, or policy of the board is a limitation on any of the following:

(a) On the power of any city or county or city and county to declare, prohibit, and abate nuisances.

(b) On the power of the Attorney General, at the request of the board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.

(c) On the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer.

(d) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.

4514.3. Exemption from waste discharge requirements; conditions.

(a) Timber operations conducted pursuant to this chapter are exempt from the waste discharge requirements of Article 4 (commencing with Section 13260) of Chapter 4 of Division 7 of the Water Code; provided, that there is a certification by the federal Environmental Protection Agency that the provisions of this chapter constitute best management practices for silviculture pursuant to Section 208 of the Federal Water Pollution Control Act.

(b) The exemption contained in subdivision (a) shall not apply when any of the following occurs:

(1) The board requests issuance of waste discharge requirements.

(2) There has been a finding by the State Water Resources Control Board that the board has failed to maintain a water quality regulatory process consistent with the certification required under subdivision (a).

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(3) After monitoring the water quality impacts from timber operations conducted in compliance with this chapter, there has been a finding by the State Water Resources Control Board that compliance with best management practices would result in less water quality protection than required in water quality control plans approved pursuant to Section 13245 of the Water Code.

4514.5. Writ of mandate. Any person may commence an action on his own behalf against the board or the department for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board or the department to carry out any duty imposed upon them under the provisions of this chapter.

4515. Report to Legislature on actions taken. The board shall submit to the Legislature on December 1st of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. Such report shall include a statement of the actions, including legislative recommendations, which are necessary to more fully carry out the purposes and requirements of this chapter.

4516. Agency rules and regulations. Notwithstanding any provision of this chapter, the California Tahoe Regional Planning Agency shall have the right, within the reasonable exercise of its powers, to adopt rules and regulations by ordinance or resolution which are stricter than those provided under this chapter and regulations adopted pursuant to this chapter. The agency's rules and regulations may include, but are not limited to, matters relating to soil erosion control, protection of stream character and water quality, flood control, stand density control, reforestation methods, mass soil movements, submission of timber harvesting plans, location and grade of roads and skid trails, excavation and fill requirements, slash and debris disposal, haul routes and schedules, hours and dates of logging, and performance bond requirements. Whenever state funds are not expended for the support of the California Tahoe Regional Planning Agency, as provided in Section 67131 of the Government Code, the Tahoe Regional Planning Agency shall have the right to adopt rules and regulations pursuant to this section.

4516.5. County recommendation of rules and regulations; timber operations; board rules and regulations; limitation on enforcement and validity of local ordinances, rules and regulations; applicability of section.

(a) Individual counties may recommend that the board adopt additional rules and regulations for the content of timber harvesting plans and the conduct of timber operations to take account of local needs. For purposes of this section, "timber operations" includes, but is not limited to, soil erosion control, protection of stream character and water quality, water distribution systems, flood control, stand density control, reforestation methods, mass soil movements, location and grade of roads and skid trails, excavation and fill requirements, slash and debris disposal, haul routes and schedules, hours and dates of logging, and performance bond or other reasonable surety requirements for onsite timber operations and for protection of publicly and privately owned roads that are part of the haul route. Where a bond or other surety has been required, the director shall not issue a work completion report without first ascertaining whether the county in which the timber operations were conducted has knowledge of any claims intended to be made on the bond or surety.

(b) The board shall, in conformance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and within 180 days after receiving recommended rules and regulations from a county, adopt rules and regulations for the content of timber harvesting plans and the conduct of timber operations consistent with the recommended if the board finds the recommended rules and regulations are both of the following:

(1) Consistent with the intent and purposes of this chapter.

(2) Necessary to protect needs and conditions of the county recommending them.

(c) The rules and regulations, if adopted by the board, shall apply only to the conduct of timber operations within the recommending county and shall be enforced and implemented by the department in the same manner as other rules and regulations adopted by the board.

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(d) Except as provided in subdivision (e), individual counties shall not otherwise regulate the conduct of timber operations, as defined by this chapter, or require the issuance of any permit or license for those operations.

(e) The board may delegate to individual counties its authority to require performance bonds or other surety for the protection of roads, in which case, the procedures and forms shall be the same as those used in similar circumstances in the county. The board may establish reasonable limits on the amount of performance bonds or other surety which may be required for any timber operation and criteria for the requirement, payment, and release of those bonds or other surety. If the county fails to inform the director of the claims within 30 days after the completion report has been filed, the bond or surety shall be released.

(f) This section does not apply to timber operations on any land area of less than three acres and which is not zoned timberland production.

4516.6. Delay between approval and commencement of timber operations; waiver; appeal of approval.

(a) To provide for adequate public review and comment, notwithstanding Section 4582.7, the director shall not approve a timber harvesting plan in any county for which rules and regulations have been adopted pursuant to Section 4516.5 or 4516.8 until 35 days from the date of filing of the plan, and timber operations shall not commence until five days from the date of approval of the plan. The board may provide, by regulation, for those periods to be waived or shortened by the department upon a determination, pursuant to criteria and procedures established by the board, that the proposed timber operations will cause no significant environmental damage or threat to public health and safety or to the environment, or that the timber operations are necessary to reduce such a threat. If the chairperson of the board of supervisors of the county in which the proposed timber operations are located notifies the director and the plan submitter that the county intends to appeal the approval of the plan and that the county meets the requirements for filing an appeal, no timber operations shall occur until the final determination of the appeal. If the board of supervisors determines not to appeal the approval of the plan, it shall immediately notify the director and the plan submitter in writing of that determination, and timber operations pursuant to the plan may commence immediately.

(b) (1) The board of supervisors of the county for which rules and regulations have been adopted pursuant to Section 4516.5 or 4516.8 may, not later than 10 days after approval of the plan by the director, appeal that approval to the board, if the county has both participated in the initial inspection of the plan area with the director and participated in a multidisciplinary review of the plan.

(2) The board may establish procedures for filing the appeal and may specify findings which the board of supervisors is required to make in filing the appeal to demonstrate that a substantial issue is raised with respect to public health and safety or the environment.

(c) The board shall grant to a county that meets the requirements for filing an appeal an initial hearing to consider the county's request for an appeal at the next regularly scheduled board meeting following the receipt of the request.

(d) The board shall grant a public hearing on the appeal if it determines at an initial hearing pursuant to subdivision (c) that the appeal raises substantial issues with respect to public health and safety or the environment.

(e) (1) The board shall hold a public hearing on the appeal granted pursuant to subdivision (d) within 30 days from the date of granting the hearing or at the next regularly scheduled board meeting, whichever occurs first, or within a longer period of time that is mutually agreed upon by the board, the county, and the plan submitter. Upon conclusion of the hearing, the board shall approve or deny the plan. The basis of the board's decision shall be conformance with this section and the rules and regulations of the board, including any rules or regulations enacted with respect to the county pursuant to Section 4516.5 or 4516.8, and this chapter. In denying a plan, the board may make findings that set forth conditions under which it believes that the plan would have been approved.

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(2) The board may delegate conduct of the hearing and the decision to a committee of three members to be appointed for that hearing by the chairperson of the board. The committee shall consist of at least two general public members of the board. The chairperson of the board or the chairperson's designee shall conduct the hearing. The decision of the committee shall have the full force and effect of a decision of the full board.

(f) This section does not apply to timber operations on any land area of less than three acres and which is not zoned for timberland production.

4516.8. Recommendations by counties for adoption of additional rules and regulations. In addition to the authority provided in Section 4516.5, the Counties of Marin, Monterey, San Mateo, Santa Clara, and Santa Cruz may recommend that the board adopt additional rules and regulations for the content of timber harvesting plans and the conduct of timber operations which provide a requirement that each timber harvesting plan contain a description of all log hauling routes, a statement of whether an encroachment permit is required by any public agency, and a requirement that no timber harvesting plan be approved by the director without the condition that the timber operator secure all required encroachment permits prior to commencement of timber operations.

4517. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Article 2. Definitions

4521. Definitions. Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter.

4521.3. Board. "Board" means the State Board of Forestry and Fire Protection.

4522. Committee. "Committee" means a district technical advisory committee.

4522.5. Cutover land. "Cutover land" means land which has borne a crop of commercial timber from which at least 70 percent of the merchantable original growth timber stand has been removed by logging or destroyed by fire, insects, or tree diseases and which is now supporting, or capable of growing, a crop of commercial timber or other forest products, and which has not been converted to other commercial or agricultural use.

4523. District. "District" means a forest district.

4524. License. "License" means a license to engage in timber operations, issued pursuant to Article 6 (commencing with Section 4571) of this chapter.

4525. Person. "Person" includes any private individual, organization, partnership, corporation, limited liability company, city, county, district, or the state or any department or agency thereof.

4525.3. Resource conservation standards. "Resource conservation standards" means the minimum acceptable condition resulting from timber operations.

4525.5. Rules. "Rules" means the district forest practice rules adopted by the board.

4525.7. Slash. "Slash" means branches or limbs less than four inches in diameter, and bark and split products debris left on the ground as a result of timber operations.

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4526. Timberland. "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 any 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 after consultation with the district committees and others.

4526.5. Timber operator. "Timber operator" means any person who is engaged in timber operations himself or who contracts with others to conduct such operations on his behalf, except a person who is engaged in timber operations as an employee with wages as his sole compensation.

4527. Timber operations. "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 work incidental thereto, including, but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, 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 conducted after January 1, 1988, but excluding preparatory work such as treemarking, surveying, or roadflagging. "Commercial purposes" includes: (1) The cutting or removal of trees which are processed into logs, lumber, or other wood products and offered for sale, barter, exchange, or trade, or; (2) The cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber which are subject to the provisions of 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. Removal or harvest of incidental vegetation from timberlands, such as berries, ferns, greenery, mistletoe, herbs, and other products, which action cannot normally be expected to result in a threat to forest, air, water, or soil resources, does not constitute timber operations.

4527.5. Timber owner. "Timber owner" means any person who owns commercial timber, timberland, cutover land, or timber rights, including Christmas tree rights, on lands of another except a federal agency.

4528. Additional definitions. As used in this chapter:

(a) "Basal area per acre" means the sum of the cross-sectional areas at breast height of the tree stems of commercial species per acre.

(b) "Countable tree" means a tree that can be used in calculating the degree of stocking under the following criteria:

(1) The tree must be in place at least two growing seasons.

(2) The tree must be live and healthy.

(3) The tree must have at least one-third of its length in live crown, except in pure stands of Douglas-fir, the tree must have at least one-fourth of its length in live crown.

(4) The tree must be a commercial species from a local seed source or a seed source which the registered professional forester determines will produce commercial trees physiologically suited for the area involved.

(c) "Stocking" means a measure of the degree to which space is occupied by well-distributed countable trees.

(d) "Site classification" means the classification of productive potential of timberland into one of five classes by board regulation, consistent with normally accepted forestry practices. Site I shall denote sites of highest productivity, site II and site III shall denote sites of intermediate productivity potential, and site IV and V shall denote sites of lowest productivity potential.

(e) "Fuel break" means a strip of modified fuel to provide a line from which to work in the control of fire.

(f) "Stream" means a natural watercourse as designated by a solid line or dash and three dots symbol shown on the largest scale United States Geological Survey map most recently published.

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4528.5. Applicability to employees. This chapter does not apply to any person who engages in activities herein regulated, as an employee, with wages as his sole compensation.

4529. Penalties and remedies, concurrent and alternative. The penalties and remedies which are prescribed in this chapter are concurrent and alternative to any other civil, criminal, or administrative rights, remedies, or penalties which are provided or allowed by law with respect to such violation.

4529.5. Forms of service. Service of documents where required under this chapter may be made by registered or certified mail addressed to the respondent's latest address registered on file with the department. Where other forms of service are prescribed, personal service is not precluded.

Article 3. Districts and Committees

4531. Establishment of districts. The board shall divide the state into not less than three districts. In establishing these districts, the board shall take into account differing physical characteristics, including, but not limited to, climate, soil type, and principal forest crops. Insofar as possible, the board shall group together lands that have substantially similar characteristics and that will best be served by substantially similar regulations. Boundaries of such districts may be altered from time to time as the board determines is necessary.

4531.5. District technical advisory committee; appointment. *[Repealed by Stats.1993, c. 56 (A.B.2351), § 33]*

4532. Membership of committees. Each committee shall consist of nine members, and shall represent the general public interest.

4533. Qualifications of committee members. All members shall be appointed on the basis of their educational and professional qualifications and their general knowledge of, and interest and experience in, ecology, soil science, watershed hydrology, range management, silviculture and forestry, forest recreation, forest landscape architecture, forest products manufacture, forest industry economics, or fish and wildlife habitat.

4534. Selection of committee members; direct personal financial interest. Five members of the committee shall be selected from the general public, three members shall be selected from the forest products industry, and one member shall be selected from the range livestock industry. At no time shall a majority of the members, nor any of the members selected from the general public, be persons with a direct personal financial interest, within the meaning of Section 1120 of the Government Code, in timberlands.

4535. Tenure of members; staggered terms. The terms of office of the members shall be for four years, except the members of the initial committee. The members of the initial committee shall classify themselves by lot at the first meeting. Three members shall serve until January 15, 1976, three members shall serve until January 15, 1977, and three members shall serve until January 15, 1978.

4536. Committees to be continuing bodies; vacancies. The committees shall be continuing bodies, and vacancies shall be filled in the same manner as original appointments are made. An appointment to a vacancy on a committee occurring before the expiration of a term shall be for the remainder of that term, and the person appointed shall be appointed from the appropriate group for the vacant seat.

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4537. Committee meetings. The committees shall meet at least once each year, in January, and at other times as necessary. All meetings of the committee shall be open to the public, and notice of such meetings shall be provided 10 days in advance to any person who requests such notice in writing; provided, that meetings may be held with 24-hour notice when such meetings are necessary to discuss unforeseen emergency conditions as may be provided by the board in regulations adopted pertaining hereto.

4538. Designation of district secretary; duties. An employee of the department shall be designated by the board to serve as secretary of each district committee and shall meet with and take part in all deliberations of the committee, but shall vote only in the case of a tie.

4539. Compensation of members; expenses. The appointive members of the committee shall receive no compensation for their services but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

4540. Duties of committees. Each committee shall advise the board in the establishment of district forest practice rules to govern timber operations on timberlands within the district. In advising the board, the committee shall not interfere with any of the powers and duties of the board. The committees shall consult with, and carefully evaluate the recommendations of, the department, concerned federal, state and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals. Each committee shall seek an optimum of interagency cooperation in identification of problems and proposing solutions.

Article 4. Rules and Regulations

4551. Adoption of district forest practice rules and regulations. 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 assure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish and wildlife, and water resources, including, but not limited to, streams lakes and estuaries.

4551.3. Sustained Yield Plans; effective period; monitoring process; public hearings; notice.

(a) A sustained yield plan that is prepared and approved in accordance with rules and regulations adopted by the board pursuant to Section 4551, including Article 6.75 (commencing with Section 1091.1) of Subchapter 7 of Chapter 4 of Division 1.5 of Title 14 of the California Code of Regulations, shall be effective for a period of no more than 10 years.

(b) As part of the continuing monitoring process for an approved sustained yield plan, as described in subdivision (a), the department shall hold a public hearing on the plan if requested by an interested party who submits, in writing, a request based on substantial evidence of potential noncompliance with any of the following:

(1) The terms and conditions of the original sustained yield plan approval.

(2) The applicable provisions of the rules or regulations adopted by the board that were in effect on the date the sustained yield plan was originally approved.

(3) Other requirements that have been imposed on the sustained yield plan by operation of law.

(c) The request shall identify specific issues in the plan to be addressed at the public hearing. To be considered, a request shall be made to the department within six months after the midpoint of the effective term of a sustained yield plan described in subdivision (a). The department shall hold the public hearing within 120 days after the date of the close of the six-month request period. A sustained yield plan shall be effective for the remainder of its term unless the director makes written findings, based on a preponderance of evidence, that implementation of the sustained yield plan is

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not in compliance with any material provision of paragraph (1), (2), or (3) of subdivision (b).

(d) If a public hearing is required, the director shall provide at least 30 days' notice to the plan submitter and the public and shall provide for a record of the hearing, pursuant to regulations adopted by the board.

4551.5. Application, development. Rules and regulations shall apply to the conduct of timber operations and shall include, but shall not be limited to, measures for fire prevention and control, for soil erosion control, for site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988, for water quality and watershed control, for flood control, for stocking, for protection against timber operations which unnecessarily destroy young timber growth or timber productivity of the soil, for prevention and control of damage by forest insects, pests, and disease, for the protection of natural and scenic qualities in special treatments areas identified pursuant to subdivision (b) of Section 30417, and for the preparation of timber harvesting plans. In developing these rules, the board shall solicit and consider recommendations from the department, recommendations from the Department of Fish and Game relating to the protection of fish and wildlife, recommendations from the State Water Resources Control Board and the California regional water quality control boards relating to water quality, recommendations from the State Air Resources Board and local air pollution control districts relating to air pollution control, and recommendations of the California Coastal Commission relating to the protection of natural and scenic coastal zone resources in special treatment areas.

4551.7. Site preparation. The board shall, on or before November 1, 1988, adopt regulations pertaining to site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988.

4552. Basis of rules and regulations; standards for preparing harvesting plans. The rules and regulations adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of timberlands and shall be used as standards by persons preparing timber harvesting plans. In those instances in which the board intends the director to exercise professional judgment in applying any rule, regulation, or provision of this chapter, the board shall include in its rules standards to guide the actions of the director, and the director shall conform to such standards, consistent with Section 710.

4553. Review and revision of rules and regulations. The rules and regulations shall be continuously reviewed and may be revised. During the formulation or revision of such rules and regulations, the board shall consult with, and carefully evaluate the recommendations of, the department, the district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

4554. Public hearing for adoption or revision of rules, etc; notice. Except for emergency regulations or orders of repeal adopted pursuant to Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the board shall not adopt or revise rules, regulations, or resource conservation standards unless a public hearing is first held respecting their adoption or revision. At least 30 days prior to the hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.

4554.5 Rules and regulations; effective dates.

(a) Notwithstanding Section 11343.4 of the Government Code, except as specified in subdivision (b), rules and regulations adopted or revised pursuant to this chapter shall become effective on the next January 1 that is not less than 30 days from the date of approval of those rules or regulations by the Office of Administrative Law.

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(b) Notwithstanding subdivision (a), if the board adopts emergency regulations pursuant to Section 4555, and subsequently adopts those emergency regulations as nonemergency rules or regulations pursuant to this chapter, the rules and regulations shall become effective 30 days from the date of approval of the rules or regulations by the Office of Administrative Law.

(c) This section shall become operative on January 1, 2001.

4555. Withholding decisions; emergency regulations. If the director determines that a substantial question exists concerning whether the intent of this chapter is currently provided for by the rules and regulations of the board, and that approval of a timber harvesting plan which has been filed could result in immediate, significant, and long-term harm to the natural resources of the state, the director may withhold decision on a timber harvesting plan. However, within five days of that action, the director shall notify the board of that action. Within 30 days of the receipt of the notice, the board shall, after a public hearing, make a determination as to whether or not the intent of this chapter has been provided for in the rules and regulations of the board. The determination shall be conclusive.

If the board finds that the intent of this chapter has not been provided for in the rules and regulations, the board shall act to amend the rules by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall act upon the plan within 15 days of the board's action. Emergency regulations adopted pursuant to this section shall be effective for not more than 120 days. The regulations may be made permanent if the board acts to adopt or revise its rules and regulations pursuant to procedures established in this article for the adoption of other than emergency regulations.

Article 5. Resource Conservation Standards

4561. Stocking standards; management; exemption. It is the purpose of this section to set forth resource conservation standards for timber operations, and to insure that a cover of trees of commercial species, sufficient to utilize adequately the suitable and available growing space, is maintained or established after timber operations.

To that end, the following resource conservation standards define minimum acceptable stocking, and an area covered by a timber harvesting plan shall be classified as acceptably stocked if either of the following conditions exist within five years after completion of timber operations:

(a) The area contains an average point count of 300 per acre, except that in areas which the registered professional forester who prepares the timber harvesting plan has determined are site IV classification or lower, the minimum average point count shall be 150 per acre. Point count shall be computed as follows:

(1) Each countable tree which is not more than four inches in diameter at breast height to count as one.

(2) Each countable tree over four inches and not more than 12 inches in diameter at breast height to count as three.

(3) Each countable tree over 12 inches in diameter at breast height to count as six.

(b) The average residual basal area, measured in stems one inch or larger in diameter is at least 85 square feet per acre, except that in areas which the registered professional forester who prepares the timber harvesting plan has determined are site II classification or lower, the minimum average residual basal area shall be 50 square feet per acre.

The board, on a finding that it is in furtherance of the purposes of this chapter, may encourage selection, shelterwood, or other types of management of timber where consistent with the biological requirements of the tree species and may regulate the size and shape of areas in which even-age management of timber is utilized.

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Timberland harvested between January 1, 1974, and the adoption of stocking standards pursuant to this chapter shall be classified as adequately stocked if, as a result of stocking which has taken place subsequent to such harvest, the minimum standards specified in this section are met.

Rock outcroppings and other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from such provisions.

4561.1. Application of standards; board standards. The resource conservation standards relating to stocking enumerated in Section 4561 shall constitute minimum requirements, and these shall be the standards to which all timber harvesting plans shall conform unless the board adopts higher stocking standards for each district. The board shall adopt standards for each district, after a public hearing, which are equal to or stricter than the standards of this chapter and shall report such standards to the Legislature.

It is not the intent of the Legislature in designating minimum standards that such standards shall be deemed to be preferred as the standards to be adopted by the board. The board may, by a majority vote as provided in Section 736, adopt higher minimum standards of stocking if, in the opinion of the board, growing conditions, tree species, site quality, or other factors justify such stricter standards and if such action is consistent with the purposes of this article.

4561.2. Stocking requirements in existence on or before Jan. 1, 1974; effect. All stocking requirements under provisions of law which were in existence on or before January 1, 1974, shall remain in full force and effect for timberland which was harvested prior to January 1, 1974.

4561.3. Acceptably stocked area classification. Notwithstanding the provisions of Section 4561, on any commercial timberlands which the department has determined do not meet the minimum acceptable stocking standards prior to any timber harvest activities which may take place on such lands between the effective date of this chapter and the adoption of permanent stocking standards pursuant to Section 4561.5, an area shall be classified as acceptably stocked if, as a result of restocking which has taken place subsequent to such harvest, it contains at least five countable trees for each tree which has been harvested.

4561.5. Permanent stocking standards; adoption and amendment. Prior to January 1, 1975, the board shall, after a public hearing, adopt, and may from time to time, after a public hearing, amend permanent stocking standards applicable to commercial timberland where the growing timber does not meet the acceptable stocking standards as enumerated in Section 4561.

4561.6. Stocking standards applicable to operations damaged by disaster; adoption; extension of stocking time; considerations. Notwithstanding the provisions of Sections 4561 to 4561.5, inclusive, the board shall adopt rules prior to January 1, 1976, which specify standards of stocking to be maintained or established after timber operations on timberlands which have been substantially damaged by fire, insects, disease, wind, flood, or other substantial damage caused by an act of God, and may provide for an extended period of time during which stocking must be properly completed on such timberlands. In developing such standards the board shall consider circumstances that affect the feasibility of restoring the productivity of such timberlands.

4561.7. Site designated for testing purposes; exemption from stocking requirement; testing location.

(a) The site designated for testing purposes by subdivision (b) is exempt from any stocking requirements.

(b) Testing may be permitted only on a 35-acre area located in the Pudding Creek drainage of Mendocino County in Sections 19 and 30, T19N, R16W, M.D.B. & M.

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4562. Fire protection zone rules. In order to reduce the incidence and spread of fire on timberlands, the board shall adopt rules in the fire protection zone as such zone is defined by the board, including, but not limited to, land along either side of the rights-of-way along public roads in widths to be determined by rule by the board in various areas, and in such other areas as the board deems necessary, to govern the disposal of solid nonforest wastes and slash created by timber operations.

4562.5. Control of soil erosion; investigation; report; regulations. It is the purpose of this section to insure that soil erosion associated with timber operations is adequately controlled to protect soil resources, forest productivity, and water quality. The prevention, retardation, and control of accelerated erosion are the principal goals of this section. The board shall conduct such investigations of soil characteristics and erosion rates and of the instruments, techniques, and procedures available for use in monitoring soil loss as will facilitate the development and application of soil resource conservation standards, and shall, by January 1, 1976, publish reports or otherwise disseminate the information thus obtained, including a determination, if possible, of permissible levels of soil loss. The board shall promulgate regulations for each district to govern timber operations that may cause significant soil disturbance.

4562.7. Protection of streams; rules. The purpose of this section is to ensure the protection of beneficial uses that are derived from the physical form, water quality, and biological capability of streams. To these ends, in addition to the rules provided for in Section 4551.5, the board shall adopt rules for control of timber operations which will result or threaten to result in unreasonable effects on the beneficial uses of the waters of the state. The rules shall include rules for:

- (a) The disposal of petroleum products, sanitary wastes, refuse, and cleaning agents in proper dumps or waste treatment facilities to prevent them from entering streams.
- (b) Construction of logging road and tractor trail stream crossings to assure substantially unimpaired flow of water and to assure free passage of fish both upstream and downstream.
- (c) Minimizing damage to unmerchantable streamside vegetation, particularly hardwood trees.
- (d) Minimizing damage to streambeds or banks resulting from skidding or hauling logs through, across, or into streams, by operating tractors or other heavy equipment in or near streambeds, or by construction of log landings or logging roads in or near the channels of streams.
- (e) Control of slash, debris, fill, and side cast earth, resulting from timber operations, which may be carried into streams.
- (f) Minimizing the effects of erosion on watercourses and lakes by all of the following:
 - 1. Installation and maintenance of drainage facilities and soil stabilization treatments as required on timber operations.
 - 2. Planned abandonment of roads and landings.
 - 3. Maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings for a period of at least one year after filing of the work completion report, provided the report is approved.

4562.9. Maintenance of installed drainage facilities and soil stabilization treatments; regulations. The board shall, on or before November 1, 1988, adopt regulations requiring maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings for a period of at least one year, but not to exceed three years, after filing of the work completion report, provided the report is approved.

4563.5. Report to governor and legislature. The department shall, on or before July 1, 1989, report to the Governor and the Legislature on the adequacy of existing resource conservation standards in meeting the objectives of this chapter and achieving the goal of maximum sustained production of high-quality timber products, as specified in Section 4513. The report shall include all of the following:

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(a) A description of the status of regeneration at a representative number of timber harvesting sites, within each forest practice district, that were previously determined by the department to be adequately stocked.

(b) Information on the type of silvicultural method originally described in the timber harvesting plan for each site examined.

(c) Any recommendations for regulations or legislation changing the requirements of this chapter, as they pertain to existing resource conservation standards, and limitations, if any, on allowable harvest levels for forest land where regeneration is not occurring consistent with the goals specified in Section 4513.

Article 6. Licenses

4570. Real Person in Interest. For purposes of this article, “real person in interest” means an individual who is one of the following:

(a) The sole proprietor, principal owner, or principal officer of an entity that is applying for license or the renewal of a license under this article.

(b) The on-site supervisor responsible for the conduct of timber operations pursuant to the license, including the authority to hire and fire persons conducting those timber operations.

4571. Necessity of license.

(a) No person shall engage in timber operations until he has obtained a license from the board.

(b) The board may issue a limited timber operator license for the commercial cutting or removal of Christmas trees, treebark, fuelwood, root crown burls, posts, or split products.

4572. Form and content of application; procedures; filing fee.

(a) The board shall by regulation, prescribe the form and content of an application for a timber operator license or license renewal, establish procedures for filing the application, and require a reasonable filing fee. The amount of the filing fee shall not exceed the amount necessary to administer licensing under this article.

(b) First-time applicants for a timber operator license shall furnish to the board proof that the real person in interest has complied with both of the following requirements:

(1) Completion, within the preceding 12 months, of an education program approved by the director that covers the statutes and regulations governing timber operations in this state.

(2) (A) Except as specified in subparagraph (B) and subdivision (d), completion of 3000 hours of work experience in two or more areas of employment in timber operations.

(B) An applicant shall be exempt from this paragraph if the applicant furnishes proof to the board that the applicant is sole proprietor of, principal owner of, or principal officer of an entity that owns, the land on which all timber operations under the license will be conducted, and the applicant will supervise those timber operations.

(c) (1) Except as specified in paragraph (2) and subdivision (d), all applicants shall file with the director written evidence of timber operation insurance coverage under an insurance policy issued by an insurer eligible to do business in this state that includes both of the following:

(A) Commercial general liability insurance for not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined, including within that limit, or in a separate limit, loggers third party property damage liability.

(B) A provision requiring the insurer to provide to the director a certificate of insurance and notice of any amendment to, or cancellation of, the policy within 30 days from the date of policy amendment or cancellation.

(2) This subdivision does not apply to an applicant who owns the land upon which the timber operations are to be conducted pursuant to the license.

(d) Subparagraph (A) of paragraph (2) of subdivision (b) and paragraph (1) of subdivision (c) does not apply to applicant for a limited timber operator license.

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4573. Reasons for denial. The board may deny a timber operator license 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) Conviction within one year of the application of unlawfully operating without a license.
- (d) The failure or refusal of the applicant to comply with this chapter or the rules and regulations adopted by the board pursuant to this chapter, within three years prior to the date of application.
- (e) The failure or refusal of the applicant to pay a judgment assessed or awarded by a court of competent jurisdiction that is the result of a violation of this chapter or the rules and regulations adopted by the board pursuant to this chapter.
- (f) The failure or refusal of the applicant to keep current the insurance required by subdivision (c) of Section 4572.
- (g) The failure or refusal of the applicant to reimburse the department for costs incurred by the department as the result of an action to correct a violation conducted in accordance with Article 8 (commencing with Section 4601).

4574. Term of licenses; denial of renewal.

- (a) Timber operator licenses shall be valid for a period not to exceed two calendar years, as prescribed by the board.
- (b) (1) The board may deny an application for license renewal until any violations by the applicant that exist on the date of submission of the renewal application, of which the applicant has been notified and given reasonable opportunity to correct, are corrected in accordance with any reasonable terms and conditions required by the board.
(2) The board may issue a temporary license to permit the applicant to perform those timber operations that are necessary to correct any violation that has resulted in a denial of license renewal.
- (c) For a license first issued on or after January 1, 1997, the board may deny an application for license renewal if the real person in interest has not completed both an education program approved by the director that covers the statutes and regulations governing timber operations in this state, and 3,000 hours of work experience in two or more areas of employment in timber operations.

4575. Effect of future legislation; transferability. A license is subject to future legislation and is not transferable.

4576. Suspension or revocation. A license may be suspended or revoked by the director pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code for any of the reasons specified by Section 4573, for refusal to allow inspections, or for violations of any of the rules and regulations of the board.

4576.1 Operating While Suspended. During the period for which a timber operator license has been suspended, revoked, or denied pursuant to Section 4573 or 4576, the real person in interest, as defined in Section 4570, may not have any ownership, possessory, security, or other pecuniary interest in, or any responsibility for the conduct of, the timber operations of any person licensed pursuant to this article. This provision does not preclude ownership of publicly traded stock in any corporation.

4577. Delegation of authority. The board may delegate its authority under this article to the director.

4578. Forest practices; licenses; exemptions. Timber operations, timber harvesting, and any other activities pursuant to a timber harvest plan or a federal or state timber sales contract are exempt from the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and no license shall be required for the conduct of timber operations on private or

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public lands, other than as provided in Section 4571.

Article 7. Timber Harvesting

4581. Necessity of timber harvesting plan. No person shall conduct timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted for such operations to the department pursuant to this article. Such plan shall be required in addition to the license required in Section 4571.

4582. Contents of timber harvesting plan. The timber harvesting plan shall be filed with the department in writing by a person who owns, leases, or otherwise controls or operates on all or any portion of any timberland and who plans to harvest the timber thereon. If the person who files the plan is not the owner of the timberland, the person filing the plan shall notify the timberland owner by certified mail that the plan has been submitted and shall certify that mailing to the department. The plan shall be a public record and shall include all of the following information:

- (a) The name and address of the timber owner.
- (b) The name and address of the timber operator if known at the time of filing. If the timber operator is not known at the time of filing, the plan submitter shall notify the department as soon as the timber operator is known, but in any case before timber operations begin.
- (c) A description of the land on which the work is proposed to be done, including a United States Geological Survey quadrangle map or equivalent indicating the location of all streams, the location of all proposed and existing logging truck roads, and indicating boundaries of all Site I classification timberlands to be stocked in accordance with subdivision (b) of Section 4561 and any other site classifications if the board establishes specific minimum stocking standards for other site classifications.
- (d) A description of the silvicultural methods to be applied, including the type of logging equipment to be used.
- (e) An outline of the methods to be used to avoid excessive accelerated erosion from timber operations to be conducted within the proximity of a stream.
- (f) Special provisions, if any, to protect any unique area within the area of timber operations.
- (g) The expected dates of commencement and completion of timber operations.
- (h) A certification by the registered professional forester preparing the plan that he or she or a designee has personally inspected the plan area.
- (i) Any other information the board provides by regulation to meet its rules and the standards of this chapter.
- (j) This section shall become operative on January 1, 1996.

4582.3. Notice of intent to harvest timber; adoption of regulations. The board shall, on or before May 1, 1985, adopt regulations regarding notice of intent to harvest timber, to be given within two working days following submission of a timber harvesting plan, which it determines to be appropriate and which are consistent with law and *Horn v. County of Ventura*, 24 Cal. 3d 605. In adopting the regulations, the board shall take account of the extent of the administrative burden involved in giving the notice. The method of notice shall include, but not be limited to, mailed notice. The regulations may require the person submitting the timber harvesting plan to provide to the department a list of the names and addresses of persons to whom the notice was mailed and a written declaration that the mailing has been completed.

4582.4. Notice of filing to person requesting in writing. Notice of filing of timber harvesting plans shall be made by the department to any person who requests, in writing, such notification.

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4582.5. Applicability of plan to specific property. Timber harvesting plans shall be applicable to a specific piece of property or properties and shall be based upon such characteristics of the property as vegetation type, soil stability, topography, geology, climate, and stream characteristics.

4582.6. Availability of plan for public inspection; transmittal of copy to Department of Fish and Game, boards and agencies; hearing on timber harvesting plan.

(a) Upon receipt of the timber harvesting plan, the department shall place it, or a true copy thereof, in a file available for public inspection in the county in which timber operations are proposed under the plan, and, for the purpose of interdisciplinary review, shall transmit a copy to the Department of Fish and Game, the appropriate California regional water quality control board, the county planning agency, and, if the area is within its jurisdiction, the Tahoe Regional Planning Agency, as the case may be. The department shall invite, consider, and respond in writing to comments received from public agencies to which the plan has been transmitted and shall consult with those agencies at their request.

(b) Within the public comment period, any responsible agency, as defined in Section 21069, shall provide the department with specific comments or recommendations, or both, on any significant environmental issues and proposed mitigation measures raised by the timber harvesting plan. The responsible agency shall also identify its statutory authority for any requests for mitigation measures that it may determine to be necessary. If the responsible agency fails to respond by the end of the public comment period, the department may assume that the responsible agency has no comments or recommendations concerning the timber harvesting plan, but the failure of the responsible agency to make comments or recommendations shall not be used as the basis for a determination or presumption that the timber harvesting plan will have no significant effect on the environment. The department shall consider all comments and recommendations received from responsible agencies and from the public during the public comment period. If a responsible agency fails to respond within the public comment period, it may request additional time to respond. The director may grant an extension of the time to respond of up to 14 calendar days if he or she determines, after consultation with the person submitting the timber harvesting plan, that an extension is necessary.

(c) To ensure that all public comments and concerns are considered by the department, each responsible agency shall maintain a list of written information it disseminates on the timber harvesting plan under review prior to the close of the public comment period.

(d) On and after July 1, 1983, the board of supervisors or planning commission of any county for which rules have been adopted pursuant to Section 4516.5 may request a public hearing on any timber harvesting plan submitted for lands within the county, and the department shall hold a hearing for the purpose of public comment, if requested, prior to taking any action on the timber harvesting plan pursuant to Section 4582.7. The hearing shall be held in the county in which the proposed harvest is located at a time and place convenient to the public. The hearing shall be held in county offices if made available by the county for that purpose. The chairperson of the hearing shall be a representative of the department, shall receive both oral and written testimony from members of the public, local government officials, persons submitting the plans, and others, and shall provide for the hearing to be electronically recorded. The department shall prepare and make available written responses to significant issues raised at the hearing. The requirements of this subdivision shall not be construed as extending the time within which any action is required to be taken pursuant to Section 4582.7.

4582.7. Review of plan; public comments; time; hearing; determination by board and director.

(a) The director shall have 30 days from the date that the initial inspection is completed (10 of these days shall follow the date of the final interagency review) or, if the director determines that the inspection need not be made, 15 days from the date of filing, as specified in Section 4604, or a longer period mutually agreed upon by the director and the person submitting the timber harvesting plan, to review the plan and take public comments. After the final review and public comment period has ended, the director shall have up to 15 working days, or a longer period mutually agreed upon by the director and the person submitting the plan, to review the public input, to consider

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recommendations and mitigation measures of other agencies, to respond in writing to the issues raised, and to determine if the plan is in conformance with the rules and regulations of the board and with this chapter.

(b) If the director determines that the timber harvesting plan is not in conformance with the rules and regulations of the board or with this chapter, the director shall return the plan, stating his or her reasons in writing, and advising the person submitting the plan of the person's right to a hearing before the board, and timber operations shall not commence.

(c) A person to whom a timber harvesting plan is returned may, within 10 days from the date of receipt of the plan, request of the board a public hearing before the board. The board shall schedule a public hearing to review the plan to determine if the plan is in conformance with the rules and regulations of the board and with this chapter. Timber operations shall await board approval of the plan. Board action shall occur within 30 days from the date of the filing of the appeal, or a longer period mutually agreed upon by the board and the person filing the appeal.

(d) If the timber harvesting plan is not approved on appeal to the board, the plan may be found to be in conformance by the director within 10 days from the date of the board action, provided that the plan is brought into full conformance with the rules and regulations of the board and with this chapter. If the director does not act within 25 days, or a longer period mutually agreed upon by the director and the person submitting the plan, timber operations may commence pursuant to the plan, and all provisions of the plan shall be followed as provided in this chapter.

(e) Upon the request of a responsible agency, the director shall consult with that agency, pursuant to this chapter, but the director, or his or her designee within the department, shall have the final authority to determine whether a timber harvesting plan is in conformance with the rules and regulations of the board and with this chapter.

4582.75. Rules as criteria for reviewing timber harvesting plans. The rules adopted by the board shall be the only criteria employed by the director when reviewing timber harvesting plans pursuant to Section 4582.7.

4582.8. Transmittal of plans to Board of Equalization. Within 10 days from the date that a timber harvesting plan is determined to be in conformance under Section 4582.7, or within 10 days from the date of receipt of a notice of timber operations, a nonindustrial timber harvest notice, a notice of exemption to convert less than three acres to a nontimber use pursuant to Section 4584, or an emergency notice filed pursuant to Section 4592, the director shall transmit copies thereof to the State Board of Equalization. Any notice of exemption or notice of emergency transmitted to the State Board of Equalization pursuant to this section shall include, among other things, an estimate of the timber owner as to whether the timber to be harvested pursuant to the notice will or will not be exempt from timber yield tax pursuant to Section 38116 of the Revenue and Taxation Code as interpreted and implemented by the State Board of Equalization.

4582.9. Appeal of approved plan; conditions of filing; suspension of timber operations; hearing.

(a) Notwithstanding any other provision of this chapter, the Director of Fish and Game or the State Water Resources Control Board may, not later than 10 days after approval of a plan by the director, appeal the approval to the board. At the time of filing of an appeal with the board, the person shall notify the director and the plan submitter of the appeal, and no further timber operations shall occur under the plan until the final determination of the appeal by the board.

(b) The Director of Fish and Game or the State Water Resources Control Board may appeal the approval of a plan by the director only if the Department of Fish and Game or the State Water Resources Control Board or a California regional water quality control board has:

(1) Participated in an onsite inspection of the plan with the department; and

(2) Participated in a multidisciplinary review of the plan. The board may establish procedures for filing an appeal and may, in order to demonstrate that a substantial issue is raised with respect to the environment or public safety, specify findings which are required to be made in filing

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an appeal.

(c) The board shall grant a hearing if it determines that the appeal under this section raises substantial issues with respect to the environment or to public safety. The board, by regulation, may delegate this determination to its chairperson.

(d) The board shall hold a public hearing within 30 days after the filing of an appeal, or a longer period mutually agreed upon by the board, the appellant, and the plan submitter. Witnesses may appear either at the request of a party having standing or at a request of a majority of the board or board committee holding the hearing. Within 10 days after the conclusion of the hearing, the board shall approve or deny the plan. The basis for the board's decision shall be all applicable provisions of California law, including, but not limited to, the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Division 1 of Title 5 of the Government Code) and subdivision (d) of Section 4512. In denying a plan, the board may make findings that set forth conditions under which it believes the plan would have been approved. The board may delegate conduct of the hearing and the decision to a committee of three members to be appointed for that hearing by the chairperson of the board. The committee shall consist of one general public member, one industry member, and the chairperson or the chairperson's designee. The chairperson of the board or the chairperson's designee shall conduct the hearing. The decision of the committee shall have the full force of a decision of the full board. At any time prior to a decision on an appeal conducted by a committee, any member of the committee may file a declaration of importance with the executive officer of the board and that appeal shall be immediately transferred to the full board for decision.

4583. Standards and rules; conformance of plan; changes or modifications; exceptions. A timber harvesting plan shall conform to all standards and rules which are in effect at the time the plan becomes effective. Except for stocking standards in effect at the time of commencement of timber operations under a timber harvesting plan, which shall remain in effect for any timberland harvested under such plan, all timber operations shall conform to any changes or modifications of standards and rules made thereafter unless prior to the adoption of such changes or modifications, substantial liabilities for timber operations have been incurred in good faith and in reliance upon the standards in effect at the time the plan became effective and the adherence to such new rules or modifications would cause unreasonable additional expense to the owner or operator.

4583.2. Report of deviations in plan which threaten attainment of standards or regulations. The registered professional forester who prepared the timber harvesting plan and or any other registered professional forester who is employed by the owner or operator, shall report to the owner and operator if there are deviations of any sort from the plan which in his judgment threaten the attainment of the resource conservation standards or other regulations promulgated pursuant to this chapter.

4583.5. Disciplinary action for material misstatement in filing of plan or report. If the board finds that the registered professional forester has made any material misstatement in the filing of any timber harvesting plan or report under this chapter, it shall take disciplinary action against him as provided under Section 775.

4584. Exempt activities. Upon determining that the exemption is consistent with the purposes of this chapter, the board may exempt from this chapter or portions thereof, any person engaged in forest management whose activities are limited to any of the following:

(a) The cutting or removal of trees for the purpose of constructing or maintaining a right-of-way for utility lines.

(b) The planting, growing, nurturing, shaping, shearing, removal, or harvest of immature trees for Christmas trees or other ornamental purposes or minor forest products, including fuelwood.

(c) The cutting or removal of dead, dying, or diseased trees of any size.

(d) Site preparation.

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(e) Maintenance of drainage facilities and soil stabilization treatments.

(f) Timber operations on land managed by the Department of Parks and Recreation.

(g) (1) The one-time conversion of less than three acres to a nontimber use. No person, whether acting as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, may obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has a member, or if a corporation or any other legal entity has 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 subdivision, means an individual, partnership, corporation, or any other legal entity.

(2) (A) Notwithstanding Section 4554.5, the Board shall adopt regulations that become effective and operative on or before July 1, 2002, and 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 under this subdivision to expire if there is any change in timberland ownership. The person who originally submitted an application for an exemption under this subdivision shall notify the department of a change of 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 violations of the conversion exemption, including conversions 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).

(h) Easements granted by a right-of-way construction agreement administered by the federal government if any timber sales and operations within or affecting these areas are reviewed and conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(i) The cutting, removal, or sale of timber or other solid wood forest products from the species *Taxus brevifolia* (Pacific yew), provided that the known locations of any stands of this species three inches and larger in diameter at breast height are identified in the exemption notice submitted to the department. Nothing in this subdivision is intended to authorize the peeling of bark from, or the cutting or removal of, *Taxus brevifolia* within a watercourse and lake protection zone, special treatment area, buffer zone, or other area where timber harvesting is prohibited or otherwise restricted pursuant to board rules.

(j) (1) The cutting or removal of trees in compliance with Sections 4290 and 4291 which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak for a distance of not more than 150 feet on each side from an approved and legally permitted structure that complies with the California Building Code, when that cutting or removal is conducted in compliance with this subdivision. For purposes of this subdivision, an "approved and legally permitted structure" includes only structures that are designed for human occupancy and garages, barns, stables, and structures used to enclose fuel tanks.

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(2) (A) The cutting or removal of trees pursuant to this subdivision shall be limited to cutting or removal that will result in a reduction in the rate of fire spread, fire duration and intensity, fuel ignitability, or ignition of the tree crowns and shall be in accordance with any regulations adopted by the board pursuant to this section.

(B) Trees may not be cut or removed pursuant to this subdivision by the clearcutting regeneration method, by the seed tree removal step of the seed tree regeneration method, or by the shelterwood removal step of the shelterwood regeneration method.

(3) (A) Surface fuels, including logging slash and debris, low brush, and deadwood that could promote the spread of wildfire shall be chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations pursuant to this subdivision.

(B) (i) All surface fuels, that are not chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations may be determined to be a nuisance and subject to abatement by the department or the city or county having jurisdiction.

(ii) The costs incurred by the department, city, or county, as the case may be, to abate the nuisance upon any parcel of land subject to the timber operations, including, but not limited to, investigation, boundary determination, measurement, and other related costs, may be recovered by special assessment and lien against the parcel of land by the department, city, or county. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ad valorem taxes.

(4) All timber operations conducted pursuant to this subdivision shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances. Nothing in this paragraph is intended to authorize the cutting, removal, or sale of timber or other solid wood forest products within an area where timber harvesting is prohibited or otherwise restricted pursuant to the rules or regulations adopted by the board.

(5) (A) The board shall adopt regulations, initially as emergency regulations in accordance with subparagraph (B), that the board considers necessary to implement and to obtain compliance with this subdivision.

(B) The emergency regulations adopted pursuant to subparagraph (A) shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

4584.5. Yield Taxes Nothing in Section 4584 shall exempt the owner of any timber harvested from registering with the State Board of Equalization or from the payment of any applicable timber yield taxes imposed pursuant to Section 38115 of the Revenue and Taxation Code.

4585. Report of completion of work described in plan; partial completion report.

(a) Within one month after completion of the work described in the timber harvesting plan or nonindustrial timber harvest notice, excluding work for stocking, site preparation, or maintenance of drainage facilities and soil stabilization treatments on skid trails, roads, and landings after the plan period, a report shall be filed by the timber owner or the owner's agent with the department that all work, except stocking, site preparation, or maintenance of drainage facilities and soil stabilization treatments, has been completed.

(b) If all of the work described in the plan has not been completed, a report may be filed annually with respect to a portion of the area covered by the plan which has been completed. The portion completed shall be adequately identified on a map submitted with the report.

4586. Inspection of completed work. Within six months of the receipt of the work completion report specified in Section 4585, the director shall determine, by inspection, whether the work

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described in the report has been properly completed in conformity with the rules and regulations of the board and the standards of this chapter. If the work has been so completed, the director shall issue a report of satisfactory completion of the work. If not, the director shall take such corrective action as he or she determines to be appropriate in accordance with Article 8 (commencing with Section 4601).

4587. Stocking report; standardized sampling procedure; waiver; regulations; operative date.

(a) Within five years after completion of timber operations on an area identified in a report submitted pursuant to Section 4585 or nonindustrial timber harvest notice, a report of stocking with respect to that area shall be filed by the timber owner or the owner's agent with the department. A separate report of stocking may be filed with the work completion report for those areas which meet stocking requirements upon completion of timber operations. The board, by regulation, shall establish one or more statistically valid standardized sampling procedures which shall be designed to measure the number of trees and their dispersion.

(b) Notwithstanding subdivision (a), the board shall adopt regulations which specify the conditions and manner in which the necessity of employing sampling procedures may be waived. The regulations shall provide that, in addition to any other possible conditions which may be required by the board, the standard sampling procedures may be waived only if the director or the director's representative and the timber owner or a registered professional forester acting as the owner's agent, agree that the area is adequately stocked to meet the standards of this chapter and any applicable rules or regulations of the board. The regulations shall require that, if the director or the director's representative does not agree that the area is so stocked, a standardized sample shall be required.

4588. Inspection of stocking; report of satisfactory completion. Within six months of the receipt of the stocking report, the director shall determine, by inspection, whether the stocking has been properly completed. If so, he shall issue a report of satisfactory completion of stocking. If not, he shall take such corrective action as he deems appropriate in accordance with the provisions of Article 8 (commencing with Section 4601) of this chapter.

4590. Term of plan and stocking work.

(a) (1) A timber harvesting plan is effective for a period of not more than three years, unless extended pursuant to paragraph (2).

(2) A timber harvesting plan on which work has been commenced but not completed may be extended by amendment for a one-year period in order to complete the work, up to a maximum of two one-year extensions, if (A) good cause is shown and (B) all timber operations are in conformance with the plan, this chapter, and all applicable rules and regulations, upon the filing of the notice of extension as required by this paragraph. The extension shall apply to any area covered by the plan for which a report has not been submitted under Section 4585. The notice of extension shall be provided to the department not sooner than 30 days, but at least 10 days, prior to the expiration date of the plan. The notice shall include the circumstances which prevented a timely completion of the work under the plan and, consistent with Section 4583, an agreement to comply with this chapter and the rules and regulations of the board as they exist on the date the extension notice is filed.

(b) Stocking work may continue for more than the effective period of the plan under subdivision (a), but shall be completed within five years after the conclusion of other work.

4591. Amendments to plan; term of amendment. Amendments to the original timber harvesting plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until the amendment has been filed with, and acted upon, by the department in accordance with Sections 4582.7 and 4583. An amendment may not extend the effective period of the plan, except as provided in Section 4590.

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4591.1. Permissible deviations. The board shall specify by regulation those deviations which may be undertaken by an operator without submission of an amended plan but which must subsequently be reported to the department, and provide for the manner of so reporting.

4592. Emergency notice; contents. Notwithstanding any other provisions of this chapter, a registered professional forester may in an emergency, on behalf of a timber owner or operator, file an "emergency notice" with the department that shall allow immediate commencement of timber operations. The emergency notice shall include a declaration, under penalty of perjury, that a bona fide emergency exists which requires immediate harvest activities, and that any applicable timber yield taxes will be paid pursuant to Section 38115 of the Revenue and Taxation Code. Those emergencies shall be defined by the board and may include, but are not limited to, the necessity to harvest to remove fire-killed or damaged timber or insect or disease-infested timber, or to undertake emergency repairs to roads.

Article 7.5. Nonindustrial Timber Management Plan

The State Board of Forestry shall adopt rules and regulations to implement Article 7.5 (commencing with Section 4593) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code, not later than January 1, 1991. The rules and regulations shall include all of the following:

(a) The conduct by the Department of Forestry and Fire Protection of one or more preharvest inspections of the land on which a nonindustrial timber management plan is proposed to be implemented, prior to the Director of Forestry and Fire Protection taking action to approve or deny the plan.

(b) Procedures for the Department of Forestry and Fire Protection to follow in conducting inspections of annual timber operations for which a notice is filed pursuant to Section 4594 of the Public Resources Code, for purposes of determining (1) whether the objectives of uneven aged management and sustained yield are being met for each parcel or group of contiguous parcels covered by the plan, and (2) compliance with the plan's other provisions, any rules and regulations of the State Board of Forestry, or Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code.

(c) Procedures for the Department of Forestry and Fire Protection to follow to cancel a nonindustrial timber management plan pursuant to Section 4594.7 or the Public Resources Code, or terminate timber operations conducted pursuant to the plan, if the objectives of uneven aged management and sustained yield are not being met, or there are persistent violations that are not corrected by the landowner or timber operator.

The department shall, on or before January 1, 1998, report to the Governor and the Legislature with an evaluation on whether the objectives of unevenaged management and sustained yield are being met for each parcel or group of contiguous parcels for which a nonindustrial timber management plan has been approved pursuant to this act.

4593. Legislative findings and declaration.

(a) The Legislature finds and declares that a substantial acreage of timberlands of the state are held by private nonindustrial owners and that it is the policy of the state to increase the productivity of these timberlands under prudent management plans to serve the public's need for timber and other forest products.

(b) The Legislature further finds and declares that minimal environmental harm is caused by prudent management of nonindustrial timberlands because low volume production and dispersion around the state of these small tracts reduces damage to aesthetics, air quality, watersheds, and wildlife.

(c) The Legislature further finds and declares that it is the policy of the state to encourage prudent and responsible forest resource management of nonindustrial timberlands by approving nonindustrial timber management plans in advance and withdrawing governmental discretion to disapprove

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nonindustrial timber harvest notices submitted pursuant to the approved nonindustrial timber management plans.

(d) It is not the intent of the Legislature by the enactment of this article to limit the penalties and the enforcement provisions of this chapter.

4593.2. Definitions. Notwithstanding Section 4521, unless the context otherwise requires, the following definitions govern construction of this article:

(a) "Nonindustrial timberlands" means timberland owned by a nonindustrial tree farmer.

(b) "Nonindustrial tree farmer" means an owner of timberland with less than 2,500 acres who has an approved nonindustrial management plan and is not primarily engaged in the manufacture of forest products.

(c) "Uneven aged management" means the management of a specific forest, with the goal of establishing a well stocked stand of various age classes and which permits the periodic harvest of individual or small groups of trees to realize the yield and continually establish a new crop.

(d) "Sustained yield" means the yield of commercial wood that an area of commercial timberland can produce continuously at a given intensity of management consistent with required environmental protection and which is professionally planned to achieve over time a balance between growth and removal.

(e) "Nonindustrial timber management plan" means a management plan for nonindustrial timberlands with an objective of an uneven aged managed timber stand and sustained yield for each parcel or group of contiguous parcels meeting the requirements of Section 4593.3.

(f) "Nonindustrial timber harvest notice" means notice of timber harvest operations pursuant to an approved nonindustrial timber management plan and meeting the requirements of Section 4594.

4593.3. Filing of plan; preparation; contents. A non-industrial timber management plan may be filed with the department in writing by a person who intends to become a nonindustrial tree farmer with the long-term objective of an unevenaged timber stand and sustained yield through the implementation of a nonindustrial timber management plan. The management plan shall be prepared by a registered professional forester. It shall be a public record and shall include all of the following information:

(a) The name and address of the timberland owner.

(b) A description of the land on which the plan is proposed to be implemented, including a United States Geological Survey quadrangle map or equivalent indicating the location of all streams, the location of all proposed and existing logging truck roads, and indicating boundaries of all site I classification timberlands to be stocked in accordance with subdivision (b) of Section 4561 and any other site classifications if the board establishes specific minimum stocking standards for other site classifications.

(c) A description of the silviculture methods to be applied and the type of yarding equipment to be used.

(d) An outline of the methods to be used to avoid excessive accelerated erosion from timber operations to be conducted within the proximity of a stream.

(e) Special provisions, if any, to protect any unique area within the boundaries of the proposed nonindustrial timber management plan.

(f) A description of the existing stand, its current projected growth, alterations required to achieve the management objectives, the projected timber volumes and tree sizes to be available for harvest, and projected frequencies of harvest.

(g) A certification by the registered professional forester preparing the plan that he or she or a designee has personally inspected the plan area.

(h) Any other information the board provides by regulation to meet its rules and the standards of this chapter.

(i) This section shall become operative on January 1, 1996.

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4593.4. Notice of receipt of plan. The board shall adopt regulations regarding the notice of receipt of the proposed nonindustrial timber management plan. The notice shall be given within two working days following submission of the proposed management plan and shall be consistent with Horn vs. County of Ventura, 24 Cal. 3rd 605, and all applicable laws. In adopting the regulations, the board shall take account of the extent of the administrative burden involved in giving the notice. The method of notice shall include, but not be limited to, mailed notice. The regulations may require the person submitting the nonindustrial timber management plan to provide to the department a list of the names and addresses of persons to whom the notice is to be mailed.

4593.5. Requests for notice. The department shall provide notice of the filing of nonindustrial timber management plans to any person who requests, in writing, that notification.

4593.6. Public inspection of plan; copies for interdisciplinary review; comments from public agencies. Upon receipt of the nonindustrial timber management plan, the department shall place it, or a true copy thereof, in a file available for public inspection in the county in which timber operations are proposed under the plan, and, for the purpose of interdisciplinary review, shall transmit a copy to the Department of Fish and Game, the appropriate California regional water quality control board, the county planning agency, and all other agencies having jurisdiction by law over natural resources affected by the plan. The department shall invite, consider, and respond in writing to comments received from public agencies to which the plan has been transmitted and shall consult with those agencies at their request.

4593.7. Review of plans; non-conforming plans; denial of plans; appeals.

(a) The director has 45 days from the date the initial inspection is completed as provided in Section 4604, or a longer period mutually agreed upon by the director and the person submitting the nonindustrial timber management plan, to review the plan to determine if the plan is in conformance with the rules and regulations of the board and this chapter. If the director determines that the plan is not in conformance with the rules and regulations of the board or this chapter, the director shall return the plan, stating his or her reasons and advising the person submitting the plan of the person's right to a hearing before the board.

(b) If the director does not act within the time periods provided in subdivision (a), a longer period shall be negotiated and mutually agreed upon by the director and the person submitting the nonindustrial timber management plan. If a longer period cannot be mutually agreed upon, the nonindustrial timber management plan shall be deemed denied and returned to the person submitting the plan.

(c) A person to whom a plan is returned may, within 10 days from the receipt of the plan, request the board for a public hearing before the board. The board shall schedule a public hearing to review the plan to determine if the plan is in conformance with the rules and regulations of the board and this chapter. Board action shall take place within 30 days from the filing of the appeal, or a longer period mutually agreed upon by the board and the person filing the appeal. If the plan is not approved on appeal to the board, the director, within 10 days of board action, may determine that the plan is in conformance if the plan is revised to bring it into full conformance with the rules and regulations of the board and this chapter.

4593.8. Amendment of approved plan. The nonindustrial tree farmer may submit a proposed amendment to the approved plan and may not take any action which substantially deviates, as defined by the board, from the approved plan until the amendment has been filed with the director and the director has determined that the amendment is in compliance with the rules and regulations of the board and the provisions of this chapter which were in effect at the time the nonindustrial timber management plan was approved, in accordance with the same procedures specified in Section 4593.7.

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4593.9. Non-substantial deviations from plan. The non-industrial tree farmer may take actions which do not substantially deviate from the approved plan without the submittal of an amendment, but those actions shall be subsequently reported to the department. The board shall specify, by regulation, those nonsubstantial deviations which may be taken. The board shall specify the requirements for reporting those deviations.

4593.10. Change of land ownership. In the event of a change of ownership of the land described in the nonindustrial timber management plan, the plan shall expire 180 days from the date of change of ownership unless the new timberland owner notifies the department in writing of the change of ownership and his or her assumption of the plan.

4593.11. Cancellation of plan by tree farmer. The nonindustrial tree farmer may cancel the nonindustrial timber management plan by submitting a written notice to the department. Once timber operations have commenced pursuant to a nonindustrial timber harvest notice, cancellation is not effective on land covered by the notice until a report of satisfactory completion has been issued pursuant to Sections 4585, 4586, and 4587.

4594. Notice of harvest within area covered by a plan; contents of notice. The nonindustrial tree farmer who owns, leases, or otherwise controls or operates on all or any portion of any timberland within the boundaries of an approved nonindustrial timber management plan, and who plans to harvest any of the timber thereon during a given year, shall file a nonindustrial timber harvest notice with the department in writing. A notice shall be filed prior to the harvesting of any timber and shall be effective for a maximum of one year from the date of filing. If the person who files the notice is not the owner of the timberland, the person filing the notice shall notify the timberland owner by certified mail that the notice has been submitted, and shall certify that mailing to the department. The notice shall be a public record and shall include all of the following information:

- (a) The name and address of the timber owner.
- (b) The name and address of the timber operator.
- (c) The name and address of the registered professional forester preparing the nonindustrial timber harvest notice.
- (d) A description of the land on which the work is proposed to be done.
- (e) A statement that no archeological sites have been discovered in the harvest area since the approval of the nonindustrial timber management plan.
- (f) A statement that no rare, threatened, or endangered plant or animal species has been discovered in the harvest area since the approval of the nonindustrial timber management plan.
- (g) A statement that there have been no physical environmental changes in the harvest area that are so significant as to require any amendment of the nonindustrial timber harvest plan.
- (h) A certification by the registered professional forester that the notice as carried out will implement best management practices for protection of the beneficial uses of water, soil stability, forest productivity, and wildlife as required by the current rules of the board, or a certification that practices consistent with the original plan will not result in any significant degradation to the beneficial uses of water, soil stability, forest productivity, or wildlife.
- (i) Special provisions, if any, to protect any unique area within the area of timber operations.
- (j) The expected dates of commencement and completion of timber operations during the year.
- (k) A statement that the harvesting notice conforms to the provisions of the approved management plan.
- (l) Any other information the board provides by regulation to meet its rules and the standards of this chapter.
- (m) This section shall become operative on January 1, 1996.

4594.2. Deviations from plan; notice by professional forester. The registered professional forester who prepares the nonindustrial timber management plan or prepares the notice, or any other registered professional forester who is employed by the owner or operator, shall report to the owner

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or operator if there are deviations from the plan which, in his or her judgment, threaten the attainment of the resource conservation standards of the plan.

4594.4. Material misstatement by professional forester; disciplinary action. If the board finds that a registered professional forester has made any material misstatement in any nonindustrial timber harvesting notice, nonindustrial timber management plan, or report under this chapter, the board shall take disciplinary action against him or her as provided under Section 775.

4594.6. Commencement of timber operations. Notwithstanding any other provisions of this chapter, if a registered professional forester certifies by written declaration, on behalf of the timber owner or operator, that the nonindustrial timber harvesting notice conforms to, and meets the requirements of, the approved nonindustrial timber management plan under which it is filed, timber operations may commence immediately unless the notice has been filed by mailing, in which case operations may commence three days after the notice has been mailed.

4594.7. Cancellation of plan by department. If it is determined that the objectives of uneven aged management and sustained yield are not being met by a nonindustrial tree farmer, or there are other persistent violations detected that are not being corrected, a previously approved nonindustrial timber management plan shall be canceled by the department and any further timber operations under the plan shall be terminated.

Article 8. Penalties and Enforcement

4601. Penalty. Any person who willfully violates any provision of this chapter or rule or regulation of the board is guilty of a misdemeanor and shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. The person is guilty of a separate misdemeanor offense under this section for each day in which an order for corrective action issued pursuant to Section 4605 or 4608 is violated.

4601.1. Violation of Chapter; civil penalty; judicial imposition or administrative imposition

(a) (1) In addition to any other penalty, any person who intentionally, knowingly, or negligently violates this chapter or a rule or regulation adopted by the board pursuant to this chapter is subject to a civil penalty imposed by a court in an amount not to exceed ten thousand dollars (\$10,000) for each violation. For purposes of this section, damage that occurs over multiple days that results from a single action shall not be considered a continuing violation. For purposes of this section, each specific act that results in a violation of this chapter or a rule or regulation adopted pursuant to this chapter, including an act that is repeated on separate days, shall be considered a separate violation.

(2) The Attorney General or district attorney, upon request of the director, shall petition the superior court to impose, assess, and recover a civil penalty pursuant to this subdivision. In determining the appropriate amount, the court shall consider all relevant circumstances, including, but not limited to, persistence, circumstances, extent and gravity of the violation, the length of the time over which the violation occurred, whether any substantial damage caused by the violation is susceptible to corrective action, whether the violation was willful or caused by negligence, and, with respect to the violator, the ability of the violator to pay any fines or penalties, the effect on the ability to continue in business, the corrective action, if any, taken by the violator, whether the violator has any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

(b) A civil penalty may also be administratively imposed by the department in accordance with Section 4601.2 on any person who intentionally, knowingly, or negligently violates this chapter or a rule or regulation adopted by the board pursuant to this chapter in an amount not to exceed ten thousand dollars (\$10,000) for each violation of a separate provision. For purposes of this

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section, damage that occurs over multiple days that results from a single action shall not be considered a continuing violation. For purposes of this section, each specific act that results in a violation of this chapter or a rule or regulation adopted pursuant to this chapter, including an act that is repeated on separate days, shall be considered a separate violation.

(c) No person is subject to both a civil penalty imposed by the superior court under subdivision (a) and a civil penalty administratively imposed under subdivision (b) for the same act or failure to act.

(d) Any money recovered by the department pursuant to this section shall be deposited in the General Fund.

4601.2. Administrative civil penalty

(a) The director may issue a complaint and proposed order to any person on whom an administrative penalty may be imposed pursuant to subdivision (b) of Section 4601.1. The complaint and order shall allege the act or failure to act that constitutes a violation, include a citation to the provisions authorizing the civil penalty to be imposed, and include the proposed civil penalty.

(b) In determining the amount of any administrative civil penalty, the department shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature, persistence, circumstances, extent and gravity of the violation, the length of time over which the violation occurred, whether any substantial damage caused by the violation is susceptible to corrective action, whether the violation was willful or caused by negligence, and, with respect to the violator, the ability of the violator to pay any fines or penalties, the effect on ability to continue in business, the corrective action, if any, taken by the violator, whether the violator has any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

(c) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that, upon the request of the party made within 10 days of such service, a hearing shall be conducted before the board or an administrative law judge within 180 days from the date that the party is served. The chairperson of the board may delegate the conduct of the hearing to a committee of the board, which shall be composed of at least three members of the board, or elect to utilize an administrative law judge assigned in accordance with Section 11370.3 of the Government Code. If the chairperson delegates the matter to a committee of the board, a majority of the committee members shall not have a financial interest in the forest products or range industry. The committee may exercise any power the board may exercise.

(d) The party charged with a violation may waive a right to a hearing, in which case the board shall not conduct a hearing, and the order of the director shall become final.

(e) After a hearing, the board or an administrative law judge may adopt, with or without revision, the proposed order of the director.

(f) An order setting an administrative civil penalty shall become effective and final upon its adoption pursuant to subdivision (e), and any payment shall be made within the time period provided by subdivision (b) of Section 4601.3. Copies of the order shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

4601.3 Judicial review

(a) Any party who is aggrieved by a final order issued by the board or an administrative law judge under Section 4601.2 may obtain review of the order in the superior court in the county in which the violation occurred by filing a petition for a writ of mandate with the court within 30 days from the date of service of the order on the party. If the aggrieved party does not petition for a writ of mandate within that 30-day period, the order of the board or an administrative law judge is not thereafter subject to review by any court.

(b) After the time for judicial review has expired, or where the party has not requested a review of the order, the administrative penalty shall be due and payable to the department within 20 days. The department may apply to the clerk of the appropriate court in the county in which the civil penalty was imposed for a judgment to collect the penalty. The application, which shall include a certified

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copy of the action by the board or the administrative law judge, constitutes a sufficient showing to warrant issuance of the judgment to collect the penalty. The court clerk shall enter the judgment in conformity with the application. Any judgment so entered by the court clerk shall have the same force and effect as, and is subject to the laws relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

4601.4 Violation of rule or regulation not resulting in environmental damage; infraction

(a) The violation of any rule or regulation adopted by the board pursuant to this chapter prescribing any procedural requirement that does not result in, or cause, any environmental damage, and is not a violation of Section 4571 or 4581, is an infraction punishable pursuant to Section 4601.5.

(b) The board shall designate those rules and regulations by section number that prescribe procedural requirements, the violation of which does not result in, or cause, environmental damage.

4601.5 Fines for infractions; correctable violations

(a) Any person who violates a rule or regulation of the board, the violation of which is an infraction as described in Section 4601.4, shall, upon conviction of the infraction, pay a fine in accordance with the following schedule:

(1) A fine of one hundred dollars (\$100) shall be imposed for the first conviction of an infraction.

(2) A fine of two hundred fifty dollars (\$250) shall be imposed for a second or subsequent conviction for the same violation within a three-year period.

(b) The board may provide, by regulation, that certain violations of a rule or regulation that would constitute an infraction, if prosecuted, are correctable and not subject to prosecution, if the violation is corrected within 10 working days from the date of the violation.

4602.5. Temporary suspension of operations pending judicial remedies; procedures; violations; penalties.

(a) This section provides an administrative procedure to suspend timber operations temporarily while judicial remedies are pursued pursuant to this article.

(b) An inspecting forest officer may issue a written timber operations stop order if, upon reasonable cause, the officer determines that a timber operation is being conducted or is about to be conducted in violation of this chapter or of forest practice rules adopted by the board pursuant to this chapter and that the violation or threatened violation would result in imminent and substantial harm to soil, water, or timber resources, or to fish and wildlife habitat. A stop order shall apply only to those acts or omissions that are the proximate cause of the violation or threatened violation. The stop order shall be effective immediately and throughout the next day.

(c) A supervising forest officer may, after an onsite investigation, extend a stop order issued pursuant to subdivision (b) for up to five days, excluding Saturday and Sunday, provided that he or she finds that the original stop order was issued upon reasonable cause. A stop order shall not be issued or extended for the same act or omission more than one time.

(d) Each stop order shall identify the specific act or omission that constitutes the violation or threatened violation, any timber operation that is to be stopped, and any corrective or mitigative actions that may be required. The department may terminate the stop order if the responsible parties enter into a written agreement with the department assuring that the parties will resume operations in compliance with this chapter and the rules adopted by the board and will correct the violations. The department may require a reasonable cash deposit or bond payable to the department as a condition of compliance with the agreement.

(e) Notice of the issuance of a stop order or an extension of a stop order shall be deemed to have been made to all persons working on a timber operation when a copy of the written order is delivered to the person in charge of operations at the time the order is issued or, if no persons are present at that time, then by posting a copy of the order conspicuously on the yarder or log loading equipment at a currently active landing on the timber operations. If no persons are present at the site of the timber operation when the order is issued, the issuing officer shall deliver a copy of the order to the

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timber operator either in person or to the operator's address of record prior to the commencement of the next working day.

(f) As used in this section, "forest officer" means a registered professional forester employed by the department in a civil service classification of forester II or higher grade.

(g) Failure of the timber operator or an employee of the timber operator, after receiving notice, to comply with a stop order is a violation of this chapter and is punishable as provided in Section 4601; provided, however, that in all cases the timber operator, and not another person or the employee, shall be charged with this violation. In determining the penalty for any timber operator found guilty of violating a validly issued stop order, the court shall take into consideration all relevant circumstances, including, but not limited to, the following:

(1) The extent of harm to soil, water, or timber resources or to fish and wildlife habitat.

(2) Corrective action, if any, taken by the defendant. Each day or portion thereof that the violation continues shall constitute a new and separate offense.

(h) Nothing in this section shall prevent a timber operator from seeking an alternative writ as prescribed in Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure, or as provided by any other provision of law.

4602.6. Temporary suspension of operations pending judicial remedies; lack of reasonable cause; claim against public entities; amount of damages. If a timber operator believes that a forest officer lacked reasonable cause to issue or extend a stop order pursuant to Section 4602.5, the timber operator may present a claim to the State Board of Control pursuant to Part 3 (commencing with Section 900) of Title 1 of the Government Code for compensation and damages resulting from the stopping of timber operations.

If the board finds that the forest officer lacked reasonable cause to issue or extend the stop order, the board shall award a sum of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per day for each day the order was in effect.

4603. Action to enforce compliance. The Attorney General may, on his own motion or at the request of the board, bring an action to enforce compliance with the rules and regulations of the board and the provisions of this chapter.

4604. Inspection of timber operation; periodic inspections; operative date.

(a) The department shall provide an initial inspection of the area in which timber operations are to be conducted within 10 days from the date of filing of the timber harvesting plan or nonindustrial timber management plan, or a longer period as may be mutually agreed upon by the department and the person submitting the plan, except that the inspection need not be made pursuant to the filing of a timber harvesting plan if the department determines that the inspection would not add substantive information that is necessary to enforce this chapter. The department shall provide for inspections, as needed, as follows:

(1) During the period of commencement of timber operations.

(2) When timber operations are well under way.

(3) Following completion of timber operations.

(4) At any other times as deemed necessary to enforce this chapter.

(b) (1) The Department of Fish and Game, the California regional water quality control boards, or the State Water Resources Control Board, if accompanied by Department of Forestry and Fire Protection personnel and after 24-hour advance notification is given to the landowner, may enter and inspect land during normal business hours at any time after commencement of timber harvest plan activities on the land and before the director issues a report of satisfactory completion of stocking pursuant to Section 4588 or at any time before the end of the first winter period following the filing of a work completion report pursuant to Section 4585, whichever is later. Any member of the inspection party may utilize whatever measurement and evaluation devices, including, but not limited to, photographic equipment and temperature measurement devices, that are determined to be necessary, when participating in an inspection of an area pursuant to subdivision (a) or after

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commencement of timber harvesting plan activities pursuant to this subdivision.

(2) Photographs taken during inspections shall be clearly labeled as to time, date, and location and shall be the property of the department and part of the inspection record. The inspection record shall be subject to all provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(3) This subdivision is not a limitation upon the authority of any agency to inspect pursuant to any other provision of law.

(c) This section shall become operative on January 1, 1991, or on the effective date of the rules and regulations adopted by the State Board of Forestry and Fire Protection pursuant to Senate Bill 1566 (Stat. 1989, ch. 1290), whichever date occurs first.

4605. Action to enjoin violations; temporary restraining order. The department may bring an action to enjoin the violation, or threatened violation, of any provision of this chapter or the rules and regulations of the board. Any such proceedings shall be in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. If in such a proceeding it shall appear from facts shown by affidavit or verified complaint that any such violation has occurred or is threatened, the court may issue a temporary restraining order restraining and ordering the immediate discontinuance of any timber operation in which such violation has occurred or is threatened pending a hearing on the matter.

The court may, upon a finding that immediate and irreparable harm is threatened to soil resources or the water of the state by virtue of erosion, pollution, or contamination, order the defendant to take appropriate emergency corrective action, authorize the department to order the defendant to take such action, or authorize the department to take emergency action to correct a violation of this chapter. Any expenses incurred by the department in taking action in conformity with such order shall be a lien upon the property upon which such action was taken when notice of the lien is recorded. Such lien shall be subject to the provisions of Section 4608.

4606. Form of injunctive relief; bond. If upon a hearing to show cause why a preliminary injunction should not be issued, or upon a hearing of any motion for a preliminary injunction, or if the court should find in any such action that any such defendant is violating, threatens to violate, or has violated, any provision of this chapter or rules and regulations of the board, the court may not only order the discontinuance of any timber operations in which the violation has occurred, is threatening to occur, or is occurring, but may also enjoin any further timber operations by the defendant in this state until the violations complained of have been corrected or until satisfactory provisions have been approved by the court for the violations to be corrected at a specified date. Any defendant in such proceedings may enter into a written agreement with the department assuring that such defendant will resume operations in compliance with the provisions of this chapter or the rules and regulations of the board and correct the violations on such reasonable terms and conditions as the department may require. Upon approval by the court, any temporary restraining order, preliminary injunction, or permanent injunction may include or be amended to include an order that any defendant entering into such an agreement comply with the terms of the agreement as a condition for engaging in any timber operations enjoined by the temporary restraining order, preliminary injunction, or permanent injunction. The court may require a bond payable to the department in such amount as the court deems proper to insure correction of any such violation in accordance with the agreement or any other provisions required by the court. The court may make any other orders reasonable and necessary to carry out the intent of this article.

4607. Correction of violations; expenses. The department may take such appropriate steps as are necessary and incur expenses to correct any violation.

4608. Notice of corrective action; form; contents; service; lien. Prior to taking any corrective action, other than under Section 4605, the department shall serve a written notice upon the person responsible for the violation. The notice shall include a statement of the corrective action to be

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taken, a date not less than 30 days from the date of service of the notice by which such corrective action is to be taken, and a statement that if such corrective action is not taken on or before the date specified the department may take corrective action and charge such person for the costs thereof pursuant to Section 4610. The notice shall also include a statement that if such person disagrees for any reason with the proposed corrective action or with the charging of such person with the costs thereof, he may, within 10 days from the service of the notice, request of the board a public hearing before the board.

The department may record such notice in each county wherein the land in violation is situated, together with a statement that any and all expenses incurred by the department in taking corrective action pursuant to the provisions of this article shall be a lien against the land. Upon satisfactory proof that corrective action has been completed, the department shall record a notice to that effect.

Any expenses incurred by the department in taking such corrective action shall be a lien upon the real property upon which such action was taken when notice of the lien is recorded. Notice of the lien, particularly identifying the real property upon which such action was taken and the amount of such lien and naming the owner of such property, shall be recorded by the department, in the office of the county recorder of each county in which such property is situated within one year after the first item of expenditures by the department or within 90 days after the completion of such action, whichever first occurs. Upon such recordation, the lien shall have the same force, effect, and priority as a judgment lien, except that it shall attach only to the real property described in such notice and shall continue for 10 years from the time of the recording of such notice, unless sooner released or otherwise discharged. The lien may, within 10 years of the time of such recording, or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new notice in the office of the county recorder where the original notice is recorded, and from the time of such recordation the lien shall be extended as to such real property for 10 years, unless sooner released or otherwise discharged. The department may at any time release all or any portion of the real property subject to such lien from the lien or subordinate it to other liens and encumbrances, if it determines that the amount owed is sufficiently secured by a lien on other property or that the release or subordination of such lien will not jeopardize the collection of such amount owed. A certificate by the department to the effect that any real property has been released from such lien or that such lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the real property has been released or that the lien has been subordinated as provided in such certificate.

4609. Action upon noncompliance with notice; public hearing by board; order. If the corrective action is not taken on or before the date specified in the notice served pursuant to Section 4608, the department may take, or contract for the taking of, such corrective action and recover the expenses of the corrective action as provided in Section 4610. When the person responsible makes a request for public hearing, the board, after at least 15 days written notice, shall hold a public hearing to hear the objections to the proposed action. The board may, but need not, conduct the hearing in accordance with the applicable provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. At the conclusion of the hearing, the board may make an order specifying the action to be taken by the person responsible to correct the violation, setting the time limits for such action, and authorizing the taking of such action by the department if the person responsible does not do so within the specified time.

4610. Expenses of corrective action; debt of person responsible; collection. The expenses incurred by the department in taking any corrective action pursuant to this article shall be increased by two hundred fifty dollars (\$250) or 10 percent, whichever sum is higher, as administrative costs and shall constitute a debt of the person responsible, and, if not paid within 10 days after written demand therefore, may be recovered by the department in a civil action.

4611. Entry upon land to take corrective action; civil liability. Neither the board, the department, nor any person authorized by the board or the department to enter upon any lands for the

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purpose of taking any corrective action pursuant to this article is liable to civil action for trespass for any acts which are necessary to carry out the provisions of this article.

4612. Report on enforcement and penalties applied. The director shall report to the board and the Legislature by January 15 of each year on the enforcement of, and the amount of penalties and fines imposed and collected pursuant to, this article, including, but not limited to, those penalties and fines imposed and collected pursuant to Sections 4601, 4601.1, and 4601.5. The report shall specifically identify the location and ownership of all properties where persons were cited for violations requiring corrective action by the department pursuant to Section 4607, the nature and cost of the corrective actions, and whether all related expenses incurred by the state have been reimbursed by the responsible party.

Article 9. Conversion

4621. Application for conversion; procedure, form, fees and content to be prescribed.

(a) Any person who owns timberlands which 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, 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.

4621.2. Proposed alternate use; information; findings required for approval.

(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 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 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 not 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.

4622. Conditions for approval of application. 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

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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.

4623. Affidavit of intent to convert land; additional proof of intent. 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.

4624. Denial of conversion permit; reasons. 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.

4624.5. Hearing on denial of permit. 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.

4625. Approval of application for permit. 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 he otherwise complies with this chapter.

4626. Revocation of permit. 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.

4627. Delegation of authority. 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.

4628. Exemptions from regulations; right-of-way construction or maintenance; subdivision development.

(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.

PROTECTION OF FOREST, RANGE AND FORAGE LANDS; PROHIBITED ACTIVITIES

PERTINENT EXCERPTS FROM PROTECTION OF FOREST, RANGE AND FOREST LANDS; PROHIBITED ACTIVITIES

Public Resources Code, Division 4, Chapter 6.

4427. Operation of fire causing equipment. During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate any motor, engine, boiler, stationary equipment, welding equipment, cutting torches, tarpots, or grinding devices from which a spark, fire, or flame may originate, which is located on or near any forest-covered land, brush-covered land, or grass-covered land, without doing both of the following:

(a) First clearing away all flammable material, including snags, from the area around such operation for a distance of 10 feet.

(b) Maintain one serviceable round point shovel with an over all length of not less than forty-six (46) inches and one backpack pump water-type fire extinguisher fully equipped and ready for use at the immediate area during the operation.

This section does not apply to portable powersaws and other portable tools powered by a gasoline-fueled internal combustion engine.

4428. Use of hydrocarbon powered engines near forest, brush or grass covered lands without maintaining firefighting tools. No person, except any member of an emergency crew or except the driver or owner of any service vehicle owned or operated by or for, or operated under contract with, a publicly or privately owned utility, which is used in the construction, operation, removal, or repair of the property or facilities of such utility when engaged in emergency operations, shall use or operate any vehicle, machine, tool or equipment powered by an internal combustion engine operated on hydrocarbon fuels, in any industrial operation located on or near any forest, brush, or grass-covered land between April 1 and December 1 of any year, or at any other time when ground litter and vegetation will sustain combustion permitting the spread of fire, without providing and maintaining, for firefighting purposes only, suitable and serviceable tools in the amounts, manner and location prescribed in this section.

(a) On any such operation a sealed box of tools shall be located, within the operating area, at a point accessible in the event of fire. This fire toolbox shall contain: one backpack pump-type fire extinguisher filled with water, two axes, two McLeod fire tools, and a sufficient number of shovels so that each employee at the operation can be equipped to fight fire.

(b) One or more serviceable chainsaws of three and one-half or more horsepower with a cutting bar 20 inches in length or longer shall be immediately available within the operating area, or, in the alternative, a full set of timber-felling tools shall be located in the fire toolbox, including one crosscut falling saw six feet in length, one double-bit ax with a 36-inch handle, one sledge hammer or maul with a head weight of six, or more, pounds and handle length of 32 inches, or more, and not less than two falling wedges.

(c) Each rail speeder and passenger vehicle, used on such operation shall be equipped with one shovel and one ax, and any other vehicle used on the operation shall be equipped with one shovel. Each tractor used in such operation shall be equipped with one shovel.

(d) As used in this section:

(1) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn over any land surface, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

(2) "Passenger vehicle" means a vehicle which is self-propelled and which is designed for carrying not more than 10 persons including the driver, and which is used or maintained for the transportation of persons, but does not include any motor truck or truck tractor.

PROTECTION OF FOREST, RANGE AND FORAGE LANDS; PROHIBITED ACTIVITIES

4429. Camps or local headquarters, firefighting equipment. During any time of the year when burning permits are required in an area pursuant to this article, at any camp maintained in such area for the residence of employees, or at any local headquarters in such area of any industrial, agricultural, or other operations on or near any forest-covered land or brush-covered land, there shall be provided and maintained at all times, in a specific location, for firefighting purposes only, a sufficient supply of serviceable tools to equip 50 percent of the able-bodied, personnel, resident of such camp, or working out of such headquarters, for fighting fires. Among these tools shall be included shovels, axes, saws, backpack pumps, and scraping tools. With such tools there shall also be one serviceable headlight adaptable for attachment to at least one-half of the tractor-bulldozers used on the operation, and a sufficient number of canteens and flashlights to equip a third of the able-bodied personnel.

4431. Gasoline powered saws, etc.; firefighting equipment. During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate or cause to be operated in the area any portable saw, auger, drill, tamper, or other portable tool powered by a gasoline-fueled internal combustion engine on or near any forest-covered land, brush-covered land, or grass-covered land, within 25 feet of any flammable material, without providing and maintaining at the immediate locations of use or operation of the saw or tool, for firefighting purposes one serviceable round point shovel, with an overall length of not less than 46 inches, or one serviceable fire extinguisher. The Director of Forestry and Fire Protection shall by administrative regulation specify the type and size of fire extinguisher necessary to provide at least minimum assurance of controlling fire caused by use of portable power tools under various climatic and fuel conditions.

The required fire tools shall at no time be farther from the point of operation of the power saw or tool than 25 feet with unrestricted access for the operator from the point of operation.

4442. Spark arresters or fire prevention measures; requirement; exemptions.

(a) Except as otherwise provided in this section, no person shall use, operate, or allow to be used or operated, any internal combustion engine which uses hydrocarbon fuels on any forest-covered land, brush-covered land, or grass-covered land unless the engine is equipped with a spark arrester, as defined in subdivision (c), maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.

(b) Spark arresters affixed to the exhaust system of engines or vehicles subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.

(c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine that uses hydrocarbon fuels or which is qualified and rated by the United States Forest Service.

(d) Engines used to provide motive power for trucks, truck tractors, buses, and passenger vehicles, except motorcycles, are not subject to this section if the exhaust system is equipped with a muffler as defined in the Vehicle Code.

(e) Turbocharged engines are not subject to this section if all exhausted gases pass through the rotating turbine wheel, there is no exhaust bypass to the atmosphere, and the turbocharger is in effective mechanical condition.

(f) Motor vehicles when being operated in an organized racing or competitive event upon a closed course are not subject to this section if the event is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

WILD AND SCENIC RIVERS ACT

PERTINENT EXCERPTS FROM THE WILD AND SCENIC RIVERS ACT

Public Resources Code, Division 5, Chapter 1.4.

5093.50. Legislative declaration. It is the policy of the State of California that certain rivers which possess extraordinary scenic, recreational, fishery, or wildlife values shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state. The Legislature declares that such use of these rivers is the highest and most beneficial use and is a reasonable and beneficial use of water within the meaning of Section 2 of Article X of the California Constitution. It is the purpose of this chapter to create a California Wild and Scenic Rivers System to be administered in accordance with the provisions of this chapter.

5093.52. Definitions. As used in this chapter:

(a) "Secretary" means the Secretary of the Resources Agency.

(b) "Resources Agency" means the Secretary of the Resources Agency and such constituent units of the Resources Agency as the secretary deems necessary to accomplish the purposes of this chapter.

(c) "River" means the water, bed, and shoreline of rivers, streams, channels, lakes, bays, estuaries, marshes, wetlands and lagoons, up to the first line of permanently established riparian vegetation.

(d) "Free-flowing" means existing or flowing without artificial impoundment, diversion, or other modification of the river. The presence of low dams, diversion works, and other minor structures shall not automatically bar any river's inclusion within the system; provided, however, that this subdivision shall not be construed to authorize or encourage future construction of such structures on any component of the system.

(e) "System" means the California Wild and Scenic Rivers System.

(f) "Land use regulation" means the regulation by any state or local governmental entity, agency, or official of any activities which take place other than directly on the waters of the segments of the rivers designated in Section 5093.54.

(g) "Director" means the Director of Fish and Game.

(h) "Immediate environments" means the land immediately adjacent to the segments of the rivers designated in Section 5093.54.

(i) "Special treatment areas" means, for the purpose of this chapter, those areas defined as special treatment areas in Section 895.1 of Title 14 of the California Administrative Code, as in effect on January 1, 1981, as such definition is applicable to wild and scenic river segments designated from time to time in Section 5093.54.

(j) "Board" means the Board of Forestry and Fire Protection.

5093.53. Classification of rivers. Those rivers or segments of rivers included in the system shall be classified as one of the following:

(a) Wild rivers, which are those rivers or segments of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted.

(b) Scenic rivers, which are those rivers or segments of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(c) Recreational rivers, which are those rivers or segments of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

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5093.54. Components of systems. The following rivers and segments thereof are designated as components of the system:

(a) Klamath River. The main stem from 100 yards below Iron Gate Dam to the Pacific Ocean; the Scott River from the mouth of Shackleford Creek west of Fort Jones to the river mouth near Hamburg; the Salmon River from Cecilville Bridge to the river mouth near Somesbar; the North Fork of the Salmon River from the intersection of the river with the south boundary of the Marble Mountain Wilderness Area to the river mouth; Wooley Creek from the western boundary of the Marble Mountain Wilderness Area to its confluence with the Salmon River.

(b) Trinity River. The main stem from 100 yards below Lewiston Dam to the river mouth at Weitchpec; the North Fork of the Trinity from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth at Helena; New River from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth near Burnt Ranch; South Fork of the Trinity from the junction of the river with State Highway Route 36 to the river mouth near Salyer.

(c) Smith River. The main stem from the confluence of the Middle and South Forks to its mouth at the Pacific Ocean; the Middle Fork from its source about three miles south of Sanger Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to the middle of Section 7 T17N R5E; the Middle Fork from the middle of Section 7 T17N R5E to the middle of Section 6 T17N R5E; the Middle Fork from the middle of Section 6 T17N R5E to one-half mile upstream from the confluence with Knopki Creek; the Middle Fork from one-half mile upstream from the confluence with Knopki Creek to the confluence with the South Fork; Myrtle Creek from its source in Section 9 T17N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to the middle of Section 28 T17N R1E; Myrtle Creek, from the middle of Section 28 T17N R1E to the confluence with the Middle Fork; Shelly Creek from its source in Section 1 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Patrick Creek; Kelly Creek from its source in Section 32 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the Middle Fork; Packsaddle Creek from its source about 0.8 miles southwest of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to the eastern boundary of Section 3 T17N R1E; Packsaddle Creek from the eastern boundary of Section 3 T17N R4E to the northern boundary of Section 3 T17N R4E; Packsaddle Creek from the northern boundary of Section 3 T17N R4E to the confluence with the Middle Fork; East Fork Patrick Creek from its source in Section 10 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with West Fork Patrick Creek; West Fork Patrick Creek from its source in Section 18 T18N R3E as depicted on 1951 15' "Gasquet" topographic map to the confluence with East Fork Patrick Creek; Griffin Creek from its source about 0.2 miles southwest of Hazel View Summit as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the Middle Fork; Knopki Creek from its source about 0.4 miles west of Sanger Peak as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with Middle Fork; Monkey Creek from its source in the northeast quadrant of Section 12 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the northern boundary of Section 26 T18N R3E; Monkey Creek from the northern boundary of Section 26 T18N R3E to the confluence with the Middle Fork; Patrick Creek from the junction of the East and West Forks of Patrick Creek to the confluence with Middle Fork; the North fork from the California-Oregon boundary to the confluence with an unnamed tributary in the northern quarter Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map; the North Fork from the confluence with an unnamed tributary in northern quarter of Section 5 T18N R2E to the southernmost intersection of eastern boundary Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map; the North Fork from the southern-most intersection of eastern boundary Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Stony Creek; the North Fork from the confluence with Stony Creek to the confluence with Middle Fork; Diamond Creek from the California-Oregon state boundary to the confluence with High Plateau Creek; Diamond Creek from the confluence with High Plateau Creek to the confluence with the North Fork; Bear Creek from its source in Section 24 T18N R2E as depicted on 1951 USGS

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15' "Gasquet" topographic map to the confluence with Diamond Creek; Still Creek from its source in Section 11 T18N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to the confluence with the North Fork Smith River; North Fork Diamond Creek from the California-Oregon state boundary to the confluence with Diamond Creek; High Plateau Creek from its source in Section 26 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to northern boundary Section 23 T18N R2E; High Plateau Creek from the northern boundary Section 23 T18N R2E to the confluence with Diamond Creek; the Siskiyou Fork from its source about 0.7 miles southeast of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the South Siskiyou Fork; the Siskiyou Fork from its confluence with the South Siskiyou Fork to the confluence with the Middle Fork; the South Siskiyou Fork from its source about 0.6 miles southwest of Buck Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the Siskiyou Fork; the South Fork from its source about 0.5 miles southwest of Bear Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to Blackhawk Bar; the South Fork from Black Hawk Bar to the confluence with the Middle Fork; Williams Creek from its source in Section 31 T14N R4E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with Eight Mile Creek; Eight Mile Creek from its source in Section 29 T14N R4E as depicted on 1955 USGS 15' "Dillon Mountain" topographic map to the confluence with the South Fork; the Prescott Fork from its source about 0.5 miles southeast of Island Lake as depicted on 1955 USGS 15' "Dillon Mountain" topographic map to the confluence with the South Fork; Quartz Creek from its source in Section 31 T16N R4E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with the South Fork; Jones Creek from its source in Section 36 T16N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the middle of Section 5 T15N R3E; Jones Creek from the middle of Section 5 T15N R3E to the confluence with the South Fork; Hurdygurdy Creek from its source about 0.4 miles southwest of Bear Basin Butte as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the South Fork; Gordon Creek from its source in Section 18 T16N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the South Fork; Coon Creek from the junction of the two-source tributaries in the southwest quadrant of Section 31 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the western boundary Section 14 T16N R2E Coon Creek from the western boundary Section 14 T16N R2E to the confluence with the South Fork; Craigs Creek from its source in Section 36 T17N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the South Fork; Buck Creek from its source at Cedar Camp Spring as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with the South Fork; Muzzleloader Creek from its source in Section 2 T15N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with Jones Creek; Canthook Creek from its source in Section 2 T15N R2E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with Jones Creek; Canthook Creek from its source in Section 2 T15N R2E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with South Fork.

(d) Eel River. The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to the river mouth at Dos Rios; North Fork of the Eel from the Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna.

(e) American River. The North Fork from its source to the Iowa Hill Bridge; the Lower American from Nimbus Dam to its junction with the Sacramento River.

(f) (1) West Walker River. The main stem from its source to the confluence with Rock Creek near the town of Walker; Leavitt Creek from Leavitt Falls to the confluence with the main stem of the West Walker River.

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(2) Carson River. The East Fork from the Hangman's Bridge crossing of State Highway Route 89 to the California Nevada border.

(3) The Legislature finds and declares that, because the East Fork Carson River and West Walker River are interstate streams, and a source of agricultural water and domestic water for communities within the counties of Alpine and Mono where they originate, it is necessary that the following special provisions apply:

(A) Nothing in this subdivision shall be construed to prohibit the replacement of diversions or changes in the purpose of use, place of use, or point of diversion under existing water rights, except that (i) no such replacement or change shall operate to increase the adverse effect, if any, of the preexisting diversion facility or place or purpose of use, upon the free-flowing condition and natural character of the stream, and (ii) after January 1, 1990, no new diversion shall be constructed unless and until the secretary determines that the facility is needed to supply domestic water to the residents of any county through which the river or segment flows and that the facility will not adversely affect the free-flowing condition and natural character of the stream.

(B) Nothing in this chapter shall be construed as quantifying or otherwise affecting any equitable apportionment, or as establishing any upper limit, between the State of California and the State of Nevada of the waters of these streams.

(g) (1) The South Yuba River: From Lang Crossing to its confluence with Kentucky Creek below Bridgeport.

(2) Nothing in this subdivision shall prejudice, alter, delay, interfere with, or affect in any way, the existing rights of the Placer County Water Agency, the implementation of those rights; any historic water use practices; the replacement, maintenance, repair, operation, or future expansion of existing diversions, storage, powerhouses, or conveyance facilities or other works by the Placer County Water Agency; or changes in the purpose of use, places of use, points of diversion, or ownership of those existing water rights; nor shall anything in this subdivision preclude the issuance of any governmental authorization needed for utilization of those rights, except that no changes shall operate to increase the adverse effect, if any, of the preexisting facilities or places, or the purposes of use upon the free-flowing and natural character of the river segment designated herein.

(h) Other rivers which qualify for inclusion in the system may be recommended to the Legislature by the secretary.

5093.541. Tributaries of Smith River

(a) Notwithstanding the fact that the tributaries of the Smith River specified in this subdivision are not included in the system, no dam, reservoir, diversion, or other water impoundment facility shall be constructed on any of the following tributaries of the Smith River:

- (1) Dominie Creek.
- (2) Rowdy Creek.
- (3) South Fork Rowdy Creek.
- (4) Savoy Creek.
- (5) Little Mill Creek.
- (6) Bummer Lake Creek.
- (7) East Fork Mill Creek.
- (8) West Branch Mill Creek.
- (9) Rock Creek.
- (10) Goose Creek.
- (11) East Fork Goose Creek.
- (12) Mill Creek.

(b) All state agencies exercising powers under any other provision of law with respect to the protection and restoration of fishery resources shall continue to exercise those powers in a manner to protect and restore fishery resources in the tributaries specified in subdivision (a). In carrying out the provisions of this subdivision, any exercise of powers shall be consistent with the provisions of Section 5093.58.

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5093.542. McCloud River; legislative findings and declarations

The Legislature finds and declares that the McCloud River possesses extraordinary resources in that it supports one of the finest wild trout fisheries in the state. Portions of the river have been appropriately designated by the Fish and Game Commission, pursuant to Chapter 7.2 (commencing with Section 1725) of Division 2 of the Fish and Game Code, as wild trout waters, with restrictions on the taking, or method of taking, of fish. The Legislature has determined, based upon a review of comprehensive technical data evaluating resources and potential beneficial uses, that potential beneficial uses must be balanced, in order to achieve protection of the unique fishery resources of the McCloud River, as follows:

(a) The continued management of river resources in their existing natural condition represents the best way to protect the unique fishery of the McCloud River. The Legislature further finds and declares that maintaining the McCloud River in its free-flowing condition to protect its fishery is the highest and most beneficial use of the waters of the McCloud River within the segments designated in subdivision (b), and is a reasonable use of water within the meaning of Section 2 of Article X of the California Constitution.

(b) No dam, reservoir, diversion, or other water impoundment facility shall be constructed on the McCloud River from Algoma to the confluence with Huckleberry Creek, and 0.25 mile downstream from the McCloud Dam to the McCloud River Bridge; nor shall any such facility be constructed on Squaw Valley Creek from the confluence with Cabin Creek to the confluence with the McCloud River.

(c) Except for participation by the Department of Water Resources in studies involving the technical and economic feasibility of enlargement of Shasta Dam, no department or agency of the state shall assist or cooperate with, whether by loan, grant, license, or otherwise, any agency of the federal, state, or local government in the planning or construction of any dam, reservoir, diversion, or other water impoundment facility that could have an adverse effect on the free-flowing condition of the McCloud River, or on its wild trout fishery.

(d) All state agencies exercising powers under any other provision of law with respect to the protection and restoration of fishery resources shall continue to exercise those powers in a manner to protect and enhance the fishery of those segments designated in subdivision (b). In carrying out this subdivision, any exercise of powers shall be consistent with Section 5093.58.

(e) Nothing in this section shall prejudice, alter, affect in any way, or interfere with the construction, maintenance, repair, or operation by the Pacific Gas and Electric Company of the existing McCloud-Pit development (FERC 2106) under its license, or prevent Pacific Gas and Electric from constructing a hydroelectric generating facility by retrofitting the existing McCloud Dam if the operation of the facility does not alter the existing flow regime below the dam.

5093.545. Revision and adoption of classification of rivers

The classifications heretofore established by the secretary for the rivers or segments of rivers included in the system are revised and adopted as follows:

Rivers	Classification
(a) Klamath River: The Klamath River from the FERC Project 2082 downstream boundary in Section 17 T47N R5W as shown on Exhibit K-7 sheet 1 dated May 25, 1962, to the river mouth at the Pacific Ocean	Recreational
(b) Scott River: (1) The Scott River from Shackelford Creek to McCarthy Creek (2) The Scott River from McCarthy Creek to Scott Bar	Recreational Scenic

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Rivers	Classification
(3) The Scott River from Scott Bar to the confluence with the Klamath River	Recreational
(c) Salmon River:	
(1) The Salmon River from the Forks of Salmon to the Lewis Creek confluence	Recreational
(2) The Salmon River from the Lewis Creek confluence to the Wooley Creek confluence	Scenic
(3) The Salmon River from the Wooley Creek confluence to the confluence with the Klamath River	Recreational
(4) The South Fork of the Salmon River from Cecilville to St. Claire Creek confluence	Recreational
(5) The South Fork from St. Claire Creek confluence to the Matthews Creek confluence	Scenic
(6) The South Fork from Matthews Creek confluence to the Forks of Salmon	Recreational
(7) The North Fork of the Salmon River from Marble Mountain Wilderness boundary to Mule Bridge Campground in Section 35 T12N R11W and Section 12 T11N R11W	Wild
(8) The North Fork from Mule Bridge Campground to the Forks of Salmon	Recreational
(9) Wooley Creek from the Marble Mountain Wilderness Area boundary to 1/2 mile upstream of the confluence with Salmon River	Wild
(10) Wooley Creek downstream 1/2 mile above the confluence with the Salmon River	Recreational
(d) Trinity River:	
(1) The Trinity River from 100 yards below Lewiston Dam to Cedar Flat Creek confluence	Recreational
(2) The Trinity River from Cedar Flat Creek confluence to Gray Falls	Scenic
(3) The Trinity River from Gray Falls to the west boundary of Section 2 T8N R4E	Recreational
(4) The Trinity River from the west boundary of Section 2 T8N R4E to the confluence with the Klamath River at Weitchpec	Scenic
(5) The North Fork of the Trinity River from the Trinity Alps Primitive Area boundary to north boundary Section 20 T34N R11W	Wild
(6) The North Fork from the north boundary Section 20 T34N R11W to mouth	Recreational
(7) The South Fork Trinity River from Forest Glen to Hidden Valley Ranch	Wild
(8) The South Fork from Hidden Valley Ranch to the Naufus Creek confluence in Section 8 T1N R7E	Scenic
(9) The South Fork from the Naufus Creek confluence in Section 8 T1N R7E to Johnson Creek confluence near the boundary of Sections 13 and 14 T2N R6E	Wild

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Rivers	Classification
<p>(10) The South Fork from Johnson Creek confluence near the boundary of Sections 13 and 14 T2N R6E to the boundary of Sections 25 and 36 T2N R6E</p> <p>(11) The South Fork from the boundary of Sections 25 and 36 T2N R6E to the footbridge near the mouth of Underwood Creek in Section 17 T4N R6E Humboldt Base and Meridian</p> <p>(12) The South Fork from the footbridge near the mouth of Underwood Creek in Section 17 T4N R6E to Todd Ranch in Section 18 T5N R5E</p> <p>(13) The South Fork from Todd Ranch in Section 18 T5N R5E to the confluence with Main Trinity</p> <p>(14) New River from the Salmon Trinity Primitive Area boundary to the junction with the East Fork New River in Section 23 T7N R7E</p> <p>(15) New River from the junction with the East Fork New River in Section 23 T7N R7E to 100 yards below Panther Creek Campground in Section 18 T6N R7E</p> <p>(16) New River from 100 yards below Panther Creek Camp-ground in Section 18 T6N R7E to Dyer Creek confluence in Section 25 T26N R6E</p> <p>(17) New River from Dyer Creek confluence in Section 25 T26N R6E to the confluence with Trinity River</p>	<p>Scenic</p> <p>Recreational</p> <p>Wild</p> <p>Scenic</p> <p>Wild</p> <p>Recreational</p> <p>Scenic</p> <p>Wild</p>
<p>(e) Smith River:</p> <p>(1) Smith River from the confluence of the Middle and South Forks to its mouth at the Pacific Ocean</p> <p>(2) Middle Fork Smith River from its source about 3 miles south of Sanger Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to the middle of Section 7 T17N R5E</p> <p>(3) Middle Fork Smith River from the middle of Section 7 T17N R5E to the middle of Section 6 T17N R5E</p> <p>(4) Middle Fork Smith River from middle of Section 6 T17N R5E to one-half mile upstream from the confluence with Knopki Creek</p> <p>(5) Middle Fork Smith River from one-half mile upstream from the confluence with Knopki Creek to the confluence with South Fork Smith River</p> <p>(6) Myrtle Creek from its source in Section 9 T17N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to the middle</p>	<p>Recreational</p> <p>Wild</p> <p>Scenic</p> <p>Wild</p> <p>Recreational</p>

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Rivers	Classification
of Section 28 T17N R1E	Recreational
(7) Myrtle Creek from the middle of Section 28 T17N R1E to the confluence with the Middle Fork Smith River	Recreational
(8) Shelly Creek from its source in Section 1 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Patrick Creek	Recreational
(9) Kelly Creek from its source in Section 32 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the Middle Fork Smith River	Recreational
(10) Packsaddle Creek from its source about 0.8 miles southwest of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to the eastern boundary of Section 3 T17N R1E	Recreational
(11) Packsaddle Creek from the eastern boundary of Section 3 T17N R4E to the northern boundary of Section 3 T17N R4E	Recreational
(12) Packsaddle Creek from the northern boundary of Section 3 T17N R4E to the confluence with the Middle Fork of Smith River	Recreational
(13) East Fork Patrick Creek from its source in Section 10 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the West Fork Patrick Creek	Recreational
(14) West Fork Patrick Creek from its source in Section 18 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the East Fork Patrick Creek	Recreational
(15) Griffin Creek from its source about 0.2 miles southwest of Hazel View Summit as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the Middle Fork Smith River	Recreational
(16) Knopki Creek from its source about 0.4 miles west of Sanger Peak as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the Middle Fork Smith River	Recreational
(17) Monkey Creek from its source in the northeast quadrant of Section 12 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the northern boundary of Section 26 T18N R3E	Recreational
(18) Monkey Creek from the northern boundary of Section 26 T18N R3E to the confluence with the Middle Fork of Smith River	Recreational

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Rivers	Classification
(19) Patrick Creek from the junction of East and West Forks of Patrick Creek to the confluence with the Middle Fork Smith River	Recreational
(20) North Fork Smith River from the California-Oregon boundary to the confluence with an unnamed tributary in the northern quarter Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map	Wild
(21) North Fork Smith River from the confluence with an unnamed tributary in the northern quarter of Section 5 T18N R2E to the southern-most intersection of the eastern boundary of Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map	Scenic
(22) North Fork Smith River from the southern most intersection of the eastern boundary Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Stony Creek	Wild
(23) North Fork Smith River from the confluence with Stony Creek to the confluence with the Middle Fork of the Smith River	Recreational
(24) Diamond Creek from the California-Oregon state boundary to the confluence with High Plateau Creek	Recreational
(25) Diamond Creek from the confluence with High Plateau Creek to the confluence with the North Fork Smith River	Recreational
(26) Bear Creek from its source in Section 24 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Diamond Creek	Recreational
(27) Still Creek from its source in Section 11 T18N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to the confluence with the North Fork Smith River	Recreational
(28) North Fork Diamond Creek from the California-Oregon state boundary to the confluence with Diamond Creek	Recreational
(29) High Plateau Creek from its source in Section 26 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the northern boundary Section 23 T18N R2E	Recreational
(30) High Plateau Creek from the northern boundary Section 23 T18N R2E to the confluence with Diamond Creek	Recreational
(31) Siskiyou Fork of Smith River from its source about 0.7 miles southeast of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the South Siskiyou Fork of the	Recreational

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Rivers	Classification
Smith River	Wild
(32) Siskiyou Fork of the Smith River from the confluence with the South Siskiyou Fork of the Smith River to the confluence with the Middle Fork of the Smith River	Recreational
(33) South Siskiyou Fork of the Smith River from its source about 0.6 miles southwest of Buck Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the Siskiyou Fork of the Smith River	Wild
(34) South Fork Smith River from its source about 0.5 miles southwest of Bear Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to Blackhawk Bar	Wild
(35) South Fork Smith River from Blackhawk Bar to the confluence with the Middle Fork Smith River	Recreational
(36) Williams Creek from its source in Section 31 T14N R4E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with Eight Mile Creek	Recreational
(37) Eight Mile Creek from its source in Section 29 T14N R4E as depicted on 1955 USGS 15' "Dillon Mtn." topographic map to the confluence with the South Fork Smith River	Recreational
(38) Prescott Fork of the Smith River from its source about 0.5 miles southeast of Island Lake as depicted on 1955 USGS 15' "Dillon Mtn." topographic map to the confluence with the South Fork Smith River	Recreational
(39) Quartz Creek from its source in Section 31 T16N R4E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with the South Fork Smith River	Recreational
(40) Jones Creek from its source in Section 36 T16N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the middle of Section 5 T15N R3E	Recreational
(41) Jones Creek from the middle of Section 5 T15N R3E to the confluence with the South Fork of the Smith River	Recreational
(42) Hurdygurdy Creek from its source about 0.4 miles southwest of Bear Basin Butte as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the South Fork Smith River	Recreational
(43) Gordon Creek from its source in Section 18 T16N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence	Recreational

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Rivers	Classification
with the South Fork Smith River	Recreational
(44) Coon Creek from the junction of the two source tributaries in the southwest quadrant of Section 31 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the western boundary of Section 14 T16N R2E	Recreational
(45) Coon Creek from the western boundary of Section 14 T16N R2E to the confluence with the South Fork Smith River	Recreational
(46) Craigs Creek from its source in Section 36 T17N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the South Fork Smith River	Recreational
(47) Buck Creek from its source at Cedar Camp Spring as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with the South Fork Smith River	Recreational
(48) Muzzleloader Creek from its source in Section 2 T15N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with Jones Creek	Recreational
(49) Canthook Creek from its source in Section 2 T15N R2E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with the South Fork Smith River	Recreational
(f) Eel River:	
(1) The Eel River from 100 yards below Van Arsdale Dam to the confluence with Tomki Creek	Recreational
(2) The Eel River from the confluence with Tomki Creek to the middle of Section 22 T19N R12W	Scenic
(3) The Eel River from the middle of Section 22 T19N R12W to the boundary between Sections 7 and 8 T19N R12W	Recreational
(4) The Eel River from the boundary between Sections 7 and 8 T19N R12W to the confluence with Outlet Creek	Wild
(5) The Eel River from the confluence with Outlet Creek to the mouth at the Pacific Ocean	Recreational
(6) The South Fork of the Eel River from the mouth of Section Four Creek near Branscomb	Recreational
(7) The South Fork of the Eel River from Horseshoe Bend to the middle of Section 29 T23N R16W	Wild
(8) The South Fork of the Eel River from the middle of Section 29 T23N R16W to the confluence with the main Eel near Weott	Recreational
(9) Middle Fork of the Eel River from the intersection of the river with the southern	

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Rivers	Classification
<p>boundary of the Middle Eel-Yolla Bolly Wilderness Area to the Eel River Ranger Station</p> <p>(10) The Middle Fork of the Eel River from Eel River Ranger Station to Williams Creek</p> <p>(11) The Middle Fork of the Eel River from Williams Creek to the southern boundary of the northern quarter of Section 25 T22N R12W</p> <p>(12) The Middle Fork of the Eel River from the southern boundary of the northern quarter of Section 25 T22N R12W to the boundary between Sections 4 and 5 T21N R13W</p> <p>(13) The Middle Fork of the Eel River from the boundary between Sections 4 and 5 T21N R13W to the confluence with main Eel at Dos Rios</p> <p>(14) The North Fork of the Eel River from the Old Gilman Ranch to the middle of Section 8 T24N R13W</p> <p>(15) The North Fork of the Eel River from the middle of Section 8 T24N R13W to the boundary between Sections 12 and 13 T24N R14W</p> <p>(16) The North Fork of the Eel River from the boundary between Sections 12 and 13 T24N R14W to the confluence with main Eel</p>	<p>Wild</p> <p>Recreational</p> <p>Scenic</p> <p>Wild</p> <p>Recreational</p> <p>Wild</p> <p>Recreational</p> <p>Wild</p>
<p>(g) Van Duzen River:</p> <p>(1) The Van Duzen River from the Dinsmore Bridge to the powerline crossing above Little Larabee Creek</p> <p>(2) The Van Duzen River from the powerline crossing above Little Larabee Creek to the confluence with Eel River</p>	<p>Scenic</p> <p>Recreational</p>
<p>(h) Lower American River: The Lower American River from Nimbus Dam to its junction with the Sacramento River</p>	<p>Recreational</p>
<p>(i) North Fork American River:</p> <p>(1) The North Fork from the source of the North Fork American River to two and one-half miles above the Forest Hill-Soda Springs Road</p> <p>(2) The North Fork from two and one-half miles above the Forest Hill-Soda Springs Road to one-half mile below the Forest Hill-Soda Springs Road</p> <p>(3) The North Fork from one-half mile below the Forest Hill-Soda Springs Road to one-quarter mile above the Iowa Hill Bridge</p> <p>(4) The North Fork from one-quarter mile above the Iowa Hill Bridge to the Iowa Hill Bridge</p>	<p>Wild</p> <p>Scenic</p> <p>Wild</p> <p>Scenic</p>

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Rivers	Classification
<p>(j) West Walker River: (1) West Walker River from Tower Lake to northern boundary of Section 10 (T5N, R22E) (2) West Walker River From northern boundary of Section 10 (T5N, R22E) to the eastern boundary of Section 23 (T6N, R22E) (3) West Walker River from the eastern boundary of Section 23 (T6N, R22E) to the eastern boundary of Section 24 (T6N, R22E) (4) West Walker River from the eastern boundary of Section 24 (T6N, R22E) to the confluence with Little Walker River (5) West Walker River from the confluence with Little Walker River to the confluence with Rock Creek (6) Leavitt Creek from Leavitt Falls to the confluence with West Walker River</p>	<p>Wild</p> <p>Scenic</p> <p>Recreational</p> <p>Scenic</p> <p>Recreational</p> <p>Scenic</p>
<p>(k) East Fork Carson River: East Fork Carson River from Hangman's Bridge crossing of state Highway 89 to the California-Nevada border</p>	<p>Scenic</p>
<p>(l) (1) The South Yuba River: (A) The South Yuba River from Lang Crossing to the confluence with Fall Creek (B) The South Yuba River from the confluence with Fall Creek to the confluence with Jefferson Creek below the town of Washington (C) The South Yuba River from the confluence with Jefferson Creek to Edwards Crossing (D) The South Yuba River from Edwards Crossing to its confluence with Kentucky Creek below Bridgeport</p> <p>(2) This subdivision shall become operative January 1, 2001.</p>	<p>Scenic</p> <p>Recreational</p> <p>Scenic</p> <p>Scenic</p>

5093.68. Special treatment areas; provisions applicable; timber operations stop orders.

(a) Within the boundaries of special treatment areas, all of the following provisions shall apply, in addition to any other provisions whether by statute or regulation:

(1) A timber operator, whether licensed or not, shall be responsible for the actions of his or her employees. The registered professional forester who prepares and signs a timber harvesting plan, a timber management plan, or a notice of timber operations shall be responsible for its contents but shall not be responsible for implementation or execution of the plan or notice unless employed for that purpose.

(2) Any registered professional forester preparing a timber harvest plan shall certify that he or she or a qualified representative has personally inspected the plan area on the ground.

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(3) Any person operating within the special treatment area who willfully violates any provision of Chapter 8 (commencing with Section 4511) of Division 4 or any rule or regulation of the State Board of Forestry and Fire Protection adopted pursuant thereto that results in significant environmental damage shall be guilty of a misdemeanor punishable by a fine of not less than five hundred (\$500) or more than five thousand dollars (\$5,000) or imprisonment for not more than one year in the county jail, or both. The person shall also be subject to civil damages to the state not to exceed ten thousand dollars (\$10,000) for each misdemeanor violation.

(4) The Director of Forestry and Fire Protection may require a bond or other evidence of financial responsibility from any timber operator whose ability to pay the civil damages provided for herein is reasonably deemed to be uncertain.

(b) In order to temporarily suspend timber operations which are being conducted within special treatment areas adjacent to wild and scenic rivers designated pursuant to Section 5093.54, while judicial remedies are pursued pursuant to this section, an inspecting forest officer of the department of Forestry [and Fire Protection] may issue a written timber operations stop order if, upon reasonable cause, the officer determines that a timber operation is being conducted or is about to be conducted in violation of Chapter 8 (commencing with Section 4511) of Division 4, or of rules and regulations adopted pursuant thereto, and that the violation or threatened violation would result in imminent and substantial damage to soil, water, or timber resources or to fish and wildlife habitat. A stop order shall apply only to those acts or omissions that are the proximate cause of the violation or that are reasonably foreseen would be the proximate cause of a violation. The stop order shall be effective immediately and throughout the next day.

(c) A supervising forest officer may, after an onsite investigation, extend a stop order issued pursuant to subdivision (b) for up to five days, excluding Saturday and Sunday, provided that he or she finds that the original stop order was issued upon reasonable cause. A stop order shall not be issued or extended for the same act or omission more than one time.

(d) Each stop order shall identify the specific act or omission that constitutes a violation or that is foreseen would constitute a violation, the specific timber operation that is to be stopped, and any corrective or mitigative actions that may be required.

(e) The Department of Forestry [and Fire Protection] may terminate the stop order if the timber operator enters into a written agreement with the department assuring that he or she will resume operations in compliance with the provisions of Chapter 8 (commencing with Section 4511) of Division 4, and with the rules and regulations adopted pursuant thereto, and will correct any violation. The department may require a reasonable cash deposit or bond payable to the department as a condition of compliance with the agreement.

(f) Notice of the issuance of a stop order or an extension of a stop order shall be deemed to have been made to all persons working on the timber operation when a copy of the written order is delivered to the person in charge of operations at the time the order is issued or, if no persons are present at that time, then by posting a copy of the order conspicuously on the yarder or log loading equipment at a currently active landing on the timber operations site. If no persons are present at the site when the order is issued, the issuing officer shall deliver a copy of the order to the timber operator either in person or to the operator's address of record prior to the commencement of the next working day.

(g) As used in this section, "forest officer" means a registered professional forester employed by the Department of Forestry [and Fire Protection] in a civil service classification of forester II or higher grade.

(h) (1) Failure of the timber operator or an employee of the timber operator, after receiving notice pursuant to this section, to comply with a validly issued stop order is a violation of this section and is punishable as provided in paragraph (3) of subdivision (a); provided, however, that in all cases, the timber operator, and not an employee of the operator or any other person, shall be charged with that violation. Each day or portion thereof that the violation continues shall constitute a new and separate offense.

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(2) In determining the penalty for any timber operator guilty of violating a validly issued stop order, the court shall take into consideration all relevant circumstances, including, but not limited to, the following:

(A) The extent of harm to soil, water, or timber resources or to fish and wildlife habitat.

(B) Corrective action, if any, taken by the defendant.

(i) Nothing in this section shall prevent a timber operator from seeking an alternative writ as prescribed in Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure, or as provided by any other provision of law.

(j) (1) If a timber operator believes that a forest officer lacked reasonable cause to issue or extend a stop order pursuant to this section, the timber operator may present a claim to the State Board of Control pursuant to Part 3 (commencing with Section 900) of Title 1 of the Government Code for compensation and damages resulting from the stopping of timber operations.

(2) If the State Board of Control finds that the forest officer lacked reasonable cause to issue or extend the stop order, the board shall award a sum of not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000), per day for each day the order was in effect.

5093.70. Mill and Deer Creeks; findings and declarations; dam, reservoir, diversion, or other impoundment facilities; protection, restoration, or enhancement of fishery resources; water rights and historic use practices

(a) The Legislature hereby finds and declares all of the following:

(1) Mill Creek and Deer Creek possess extraordinary resources in that they support one of the few remaining viable populations of wild spring-run chinook salmon in the Sacramento-San Joaquin River system. One essential component of the resources provided by these creeks is their exceptional water quality.

(2) Based on a review of comprehensive technical data, the Legislature has determined that potential beneficial uses must be balanced to achieve protection of the unique fishery resources and existing water rights of Mill Creek and Deer Creek in the manner specified in this section. In lieu of including Mill Creek and Deer Creek in the system, the continued management of stream resources in their existing natural condition consistent with the terms of this section represents the best way to protect the unique fishery of Mill Creek and Deer Creek. Maintaining the existing free flowing conditions of Mill Creek and Deer Creek to protect their fisheries is the highest and most beneficial use of the unappropriated waters of Mill Creek and Deer Creek within the segments designated in subdivisions (b) and (c), and is a reasonable use of water within the meaning of Section 2 of Article X of the California Constitution.

(b) No new dam, reservoir, diversion, or other water impoundment facility shall be constructed on Mill Creek from the headwaters of East Sulphur Creek within Section 15 T30N R4E to the United States Geological Survey gauging station in the northeast quarter of the northwest quarter of Section 6 T25N, R1W.

(c) No new dam, reservoir, diversion, or other water impoundment facility shall be constructed on Deer Creek from the headwaters in Section 11 T27N R5E to the United States Geological Survey gauging station in the northwest quarter of the northeast quarter of Section 23 T25N, R1W.

(d) Except for the maintenance of existing flood control facilities and projects by public agencies or private landowners or emergency flood control activities or repairs required due to acts of God, provided that those activities or projects do not interfere with the passage of migrating anadromous fish, no state agency shall assist or cooperate with, whether by loan, grant, license, or otherwise, any agency of the federal, state, or local government in the planning or construction of any dam, reservoir, diversion, or other water impoundment facility that could have an adverse effect on the free-flowing conditions of Mill Creek and Deer Creek, or on their wild runs of spring-run chinook salmon.

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(e) All state agencies exercising powers under any other provision of law with respect to the protection and restoration of fishery resources shall continue to exercise those powers in a manner that protects and enhances the fishery of the segments designated in subdivisions (b) and (c). In carrying out this subdivision, any exercise of powers shall be consistent with Section 5093.58.

(f) Nothing in this section shall prejudice, alter, affect in any way, delay, or interfere with the implementation or construction of any fishery restoration or improvement project that is authorized, required, or recommended pursuant to the Central Valley Improvement Act (Public Law 102-575) or the Upper Sacramento River Fisheries and Riparian Habitat Management Plan developed pursuant to Chapter 885 of the Statutes of 1986, or of any other fishery restoration or improvement project.

(g) Nothing in this chapter shall prejudice, alter, affect in any way, delay, or interfere with existing water rights; implementation of those rights; historic water use practices; and replacement, maintenance, repair, or operation of diversions and diversion facilities; or changes in the purposes of use, places of use, points of diversion, or ownership of existing water rights, except that no change shall operate to increase the adverse effect, if any, of the preexisting diversion facility or place or purpose of use upon the free flowing and natural character of the stream.

PROFESSIONAL FORESTERS LAW

Public Resources Code Sections 750-783

Division 1. Administration

Chapter 2.5 Department of Forestry and Fire Protection

Article 3. Professional Foresters.

750. Short title.

This article may be known and cited as the Professional Foresters Law.

751. Purpose.

The purpose of this article is to declare the existence of a public interest in the management and treatment of the forest resources and timberlands of this state and to provide for the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of forested landscapes and the quality of the forest environment, and through that regulation to enhance the control of air and water pollution, the preservation of scenic beauty, the protection of watersheds by flood and soil erosion control, the production and increased yield of natural resources, including timber, forage, wildlife, and water, and outdoor recreation, to meet the needs of the people.

752. Professional forester; scope of license and expertise.

(a) "Professional forester," as used in this article, means a person who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and experience, performs services, including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forestry activities when those professional services require the application of forestry principles and techniques.

(b) A professional forester is licensed to perform forestry services only in those areas of expertise in which the person is fully competent as a result of training or experience. In order for a professional forester to fulfill all of his or her responsibilities with regard to a particular activity on a site, if the expertise that is prudently required exceeds the expertise possessed by the professional forester in that regard, the professional forester may need to utilize the services of other qualified experts, including, but not limited to, archaeologists, botanists, civil engineers, ecologists, fisheries biologists, geologists, hydrologists, land surveyors, landscape architects, range scientists, soil scientists, or wildlife biologists. Nothing in this article shall preclude those other environmental professionals from the application of their knowledge in their field of expertise outside the practice of forestry, as defined in Section 753.

753. Forestry.

"Forestry," as used in this article, refers to the science and practice of managing forested landscapes and the treatment of the forest cover in general, and includes, among other things, the application of scientific knowledge and forestry principles in the fields of fuels management and forest protection, timber growing and utilization, forest inventories, forest economics, forest valuation and finance, and the evaluation and mitigation of impacts from forestry activities on watershed and scenic values, to achieve the purposes of this article. The practice of forestry applies only to those activities undertaken on forested landscapes. The professions specified in Section 772 are not practicing forestry when mitigating or recommending mitigation of impacts from previous forestry activities on related watershed or ecological values within their area of professional expertise or when recommending those mitigations for proposed timber operations. However, public and private foresters are required to be licensed pursuant to this article when making evaluations and determinations of the appropriate overall combination of mitigations of impacts from forestry activities necessary to protect all forest resources.

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754. Forested landscapes.

“Forested landscapes” means those tree dominated landscapes and their associated vegetation types on which there is growing a significant stand of tree species, or which are naturally capable of growing a significant stand of native trees in perpetuity, and is not otherwise devoted to nonforestry commercial, urban, or farming uses.

755. Person.

“Person” as used in this article means any natural person.

756. Supervision of forestry work by registered professional forester.

Nothing in this article prohibits any person from engaging in those activities otherwise restricted to professional foresters, certified specialists, or qualified but exempt certificants, provided a registrant is in charge of the professional practice or work of that person and all professional work or documents are done by or under the supervision of the registrant.

757. Landowner; exception.

The provisions of this article do not apply to any landowner who is a natural person and who personally performs services of a professional forester, when such services are personally performed on lands owned by him.

758. Professional forester not authorized to practice civil engineering, land surveying, or landscape architecture.

This article shall not be construed to authorize a registered professional forester to practice civil engineering as defined in Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code or to practice land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code or to practice landscape architecture, as defined in Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code.

759. Rules and regulations.

The board may by regulation adopt such rules and regulations pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, as it determines are reasonably necessary to enable it to carry into effect the provisions of this article.

760. Meetings to consider registration matters; time.

The board shall consider matters pertaining to the registration of professional foresters at least once every six months at regular meetings and may, as necessary, meet solely for the purpose of considering matters to carry out the provisions of this article.

760.5. Staff personnel; executive officer; civil service.

The board may hire the clerical and secretarial employees, technical personnel, and other staff who are necessary and budgeted to properly assist the work of the board in carrying out the purposes of this article. This staff personnel shall be subject to the relevant system and procedures of the state civil service. The provisions of the State Civil Service Act contained in Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code shall apply to that personnel. The executive officer shall be an employee exempt from civil service.

761. Records.

The board shall keep a complete record of all applications for registration and certification and the board’s action thereon.

PROFESSIONAL FORESTERS LAW

762. Certificates of specialization.

The board may by regulation provide for the issuance of certificates of specialization in such fields of specialization as the board may by regulation establish.

763. Examining committee; membership; duties.

(a) The board shall establish an examining committee of at least seven members composed of the following, who shall be appointed by the board and serve at its pleasure:

(1) Two public members with one selected from the membership of the board.
(2) At least four professional foresters in good standing representing a broad cross section of employment and expertise.

(3) At least one certified specialist registered pursuant to Section 772 in good standing. If a certified specialist is not available to serve on the committee, this position shall be replaced by an additional professional forester in good standing.

(b) The examining committee shall do all of the following:

(1) Examine all applicants for registration as professional foresters and for specialty certificates.

(2) Recommend to the board applicants for the license of professional forester and applicants for specialty certificates who fulfill the requirements of this article.

(3) Review complaints, which review may include independent investigations or expert witness evaluations, and make disciplinary recommendations to the board.

(4) Establish ad hoc committees as needed with representatives of certified specialists.

(5) Recommend to the board whether an independent certification program qualifies for recognition under Section 754.

(6) Recommend adoption of the rules and regulations or changes in rules and regulations which may be needed to effect this article.

764. Examining committee; compensation; expenses.

Any person appointed to serve upon the examining committee shall receive, if requested, one hundred dollars (\$100) for each day during which he or she is engaged in the performance of his or her official duties, except that the compensation of each member shall not exceed in any one fiscal year the sum of one thousand dollars (\$1,000). In addition, each member shall be reimbursed for necessary expenses incurred in the performance of his or her duties, including travel, at state rates.

765. Examining committee; appeals.

The examining committee shall adhere to the rules and regulations of the board. Any applicant for a license pursuant to this article who contends that he has been aggrieved by any action taken by the examining committee with respect to his qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on such appeal may administer an oral or written examination to the applicant as an aid in determining whether the applicant is qualified under the terms of this article.

766. Necessity of registration.

On and after July 1, 1973, it shall be unlawful for any person to act in the capacity of, or to use the title of, a professional forester without being registered pursuant to this article, unless exempted from the provisions thereof.

767. Application for license; fee.

An applicant for a license pursuant to this article shall apply to the board. Such application shall be accompanied by the payment of a fee in an amount fixed by the provisions of this article.

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768. Demonstration of experience and knowledge.

The board shall require an applicant to demonstrate such degree of experience and such general knowledge of the profession of forestry as the board deems necessary for the protection of the public.

769. Qualifications.

An applicant shall meet all of the following qualifications:

(a) Be of good moral character and have a good reputation for honesty and integrity.

(b) Furnish evidence of having completed seven years of experience in forestry work.

Possession of a degree of bachelor of science, or equivalent degree as determined by the board, with a major in forestry, shall be deemed equivalent to four years of experience in the actual practice of forestry work. At least three of the seven years of experience shall include having charge of forestry work, or forestry work under the supervision of a person registered, or qualified for, but exempt from, registration under the provision of this article. Work completed prior to July 1, 1973, shall qualify if it was under the supervision of a qualified forester, as defined in Section 754. The award of a master of forestry degree shall be acceptable as evidence of one year of such qualifying experience.

(c) Has successfully completed such examination or examinations as are prescribed by the board.

770. Examinations.

(a) Examinations shall be given by the board as often as it is deemed necessary, but at least every six months.

(b) The examination may consist of both written and oral portions. A grade of 75 percent shall be necessary for successful completion of the examination.

771. Reexamination.

An applicant failing in an examination may be examined again upon filing a new application and paying the application fee.

772. Certified specialist; registration; specialties.

Instead of being registered as a professional forester, an applicant may request to be registered as a certified specialist in one or more fields of forestry. Nothing in this article shall authorize the board to certify or otherwise license wildlife biologists, fisheries biologists, botanists, ecological restorationists, stream restorationists, hydrologists, or geologists. Registration in a specialty area does not prohibit a professional forester from providing services within that professional forester's area of expertise. Any public agency or professional society may submit for board recognition its independent certification program as full qualification without examination for the board's certificate of specialization. That certification as a specialist shall be granted provided the board determines the program fully protects the public interest in that area of practice encompassed by the program. Those certificants are subject to board registration and discipline with review by that specialty.

773. Licenses and specialty certificates; expiration.

Licenses and specialty certificates issued pursuant to this article shall be valid for two years and shall expire on July 1 of each alternating year.

774. Denial of license; reapplication conditions.

(a) Issuance of a license may be denied if sufficient evidence is received by the board of the commission or doing by the applicant of any act which, if committed or done by a licensee, would be grounds for the suspension or revocation of his license.

(b) In any decision denying an application, the board may provide that it will accept no future application from the applicant until he complies with specified conditions. No condition may be required by the board that is not just and reasonable.

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775. Investigations; suspension or revocation of license.

The board may upon its own motion, and shall upon the verified complaint in writing of any person, cause investigation to be made of the actions of any person licensed pursuant to this article, and may temporarily suspend or permanently revoke the license of any person who is guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary action.

776. Limitations of actions; law governing.

Any accusation against a registrant or a certificant shall be filed within five years after the act or omission alleged as the ground for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the board has all the powers granted in that chapter.

777. Mode of discipline.

If the board finds against the registrant, the board, in its decision, may terminate all operations of the registrant during the period fixed by the decision, except those operations the board determines that the person may complete. The board may impose upon the registrant compliance with specific conditions as may be just in connection with his or her operations, and may further provide that, until the conditions are complied with, no application for restoration of the suspended or revoked registration shall be accepted by the board. The board shall provide public notice of the suspension or revocation pursuant to this section. The board may issue a private reprimand when a registrant commits a failure of responsibility which warrants a lesser level of discipline than suspension. The issuance of a private reprimand does not prohibit the board from using the subject of the private reprimand in an accusation, within the statute of limitations, seeking suspension or revocation resulting from a subsequent complaint, to establish a pattern of lesser failures of professional responsibility. If the evidence is insufficient to support a private reprimand or an accusation, the executive officer for registration may send a letter expressing the examining committee's concerns.

778. Causes for disciplinary action.

A registrant or certificant is subject to disciplinary action who:

(a) Has been convicted of a felony substantially related to the qualifications, functions, or duties of a registered professional forester. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(b) Has been found guilty by the board of any deceit, misrepresentation, fraud, material misstatement of fact, incompetence, or gross negligence in his or her practice.

(c) Has been guilty of any fraud or deceit in obtaining his or her registration or certification.

(d) Aids or abets any person in the violation of any provision of this article.

(e) Fails in any material respect to comply with the provisions of this article.

778.5. Criteria development; disciplinary action.

The board shall develop criteria to determine whether a felony is substantially related to the qualifications, functions, or duties of a registered professional forester in order to aid it when considering the denial, suspension, or revocation of a license.

779. Violations; misdemeanor.

Any person who violates any of the provisions of this article is guilty of a misdemeanor.

780. Deposit of fees.

The fees received pursuant to this article shall be deposited in the Professional Forester Registration Fund in the State Treasury, which fund is hereby created.

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781. Use of fees; emergency expenditure.

All fees received pursuant to the provisions of this article shall be available, when appropriated by the Legislature, for the administration of this article; provided, that in the event that moneys need to be expended from the Professional Forester Registration Fund for emergencies for which no appropriation, or an insufficient appropriation, has been made by law, and which in the judgment of the Director of Finance constitutes a case of actual necessity, but limited to purposes of administration of this article which have been specifically approved by the Legislature in budget acts or other legislation, the Director of Finance may authorize an emergency expenditure in an amount determined by him from such fund; provided, further, that the Director of Finance shall file with the Joint Legislative Budget Committee within 10 days after approval of such emergency expenditure, copies of all executive orders, expenditure authorizations, and allotments made pursuant to this section, and stating the reasons for, and the amount of, such expenditures.

782. Fee schedule.

The board shall establish by regulation the amount of fees within the following ranges, and based on a determination by the board of the amount of revenues reasonably necessary to carry out this article:

(a) The application fee for registration or for each certificate of specialization shall be not less than fifty dollars (\$50) and not more than two hundred dollars (\$200).

(b) The registration fee and certificate of specialization fees and renewal fees shall be not less than twenty-five dollars (\$25) and not more than two hundred fifty dollars (\$250) per year. Every licensed person shall, on or before July 1 of the year of expiration, pay the renewal fee.

(c) The fee for the issuance of a duplicate display registration document or certificate of specialization shall be not less than five dollars (\$5) and not more than twenty-five dollars (\$25).

(d) The penalty fee for failure to apply for a renewal shall be not less than ten dollars (\$10) and not more than twenty-five dollars (\$25) for each month of delinquency. In return for the payment of the renewal fee and any applicable late fees, a renewal registration card shall be issued.

(e) A registrant or certificant may, upon written notice to the board, be granted a withdrawal period without penalty not to exceed five years. A reinstatement application shall be accompanied with a fee of not less than fifteen dollars (\$15) and not more than fifty dollars (\$50), for registration or each certificate of specialization.

783. Default in payment of renewal fee; effect.

In case any person defaults in payment of the renewal fee, his or her registration may be revoked by the board on 60 days' notice in writing from the board, unless within this time the fee is paid, together with penalty, not exceeding the amount fixed by this article. Upon payment of the fee and penalty within one year, the board shall reinstate the person's registration.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

REGISTRATION OF PROFESSIONAL FORESTERS RULES

Title 14, California Code of Regulations, Chapter 10. Registration of Professional Foresters

Article 1. General Provisions

1600. Definitions.

For the purposes of the rules and regulations contained in this chapter, the term:

“Board” means the State Board of Forestry [and Fire Protection].

“Certified Specialist” refers to a person who holds a valid certification in a specialty created by the Board.

“Code” or “PRC” refers to the Public Resources Code, unless otherwise specified.

“Committee” or “PFEC” means the Professional Foresters Examining Committee.

“Executive Officer” refers to the Executive Officer, Foresters Licensing.

“Forest Resources” means those uses and values associated with, attainable from, or closely tied to, forested landscapes, and includes but is not limited to aesthetics, fish, forage, recreation, soil, timber, water and watersheds, wilderness, and wildlife.

“Registered Professional Forester” or “RPF” refers to a person who holds a valid license as a professional forester pursuant to the provisions of the code.

1601. Board of Forestry [and Fire Protection] Address

All correspondence relating to Professional Foresters Registration, including remittances and renewal fees, shall be directed to the principal offices of the State Board of Forestry [and Fire Protection] located in the Resources Building, 1416 Ninth Street, Sacramento, or by mail to P.O. Box 944246, Sacramento, California 94244-2460.

1601.1. Determination of Deadlines.

Any due dates or time frames for submission of fees, completed forms, or correspondence is determined by date of personal delivery at Board office or date of postmark by commercial carrier.

1602. Professional Forestry Practice Defined.

(a) The phrase “act in the capacity of...a professional forester...” pursuant to Public Resources Code (PRC), Section 766 refers to any person who is working in a responsible position as an individual or through the supervision of others, and performs services on forested landscapes applicable to “forestry” as defined in PRC, Section 753 and clarified herein. Forestry requires specific knowledge of forestry principles for providing advice to, or management for, employers, clients, or others, through consultation; through conduct of investigations in forestry matters which have potential environmental effects, or are for site-specific purposes; through evaluation of forest properties; and through the planning or execution of forest programs, management, operations, and/or treatment.

(b) A Registered Professional Forester (RPF) shall perform forestry services only in those subjects in which he or she is competent by training or experience. Thus, for a RPF to accomplish a site-specific forestry project where the RPF’s prudent level of expertise is surpassed, that RPF may need to utilize the services of other qualified experts including but not limited to geologists, landscape architects, engineers and land surveyors, archaeologists, botanists, ecologists, fisheries biologists, stream restorationists, wildlife biologists, hydrologists, range scientists, soil scientists, and certified specialists established pursuant to PRC 772.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

(c) In carrying out PRC, Section 772, a Certified Specialist shall perform only those services in his or her specialty as defined herein. Nothing in this section shall preclude certified specialists or the other environmental professionals in subsection (b) from the application of scientific knowledge in their field of expertise outside the practice of forestry.

1602.1. Identity Required of Registered Professional Forester in Charge.

Any letter or document which offers to perform or implies the performance of any professional forestry work must identify by name and license number the forester (RPF) who will be in charge of such work when it is performed. An unregistered assistant acting in the capacity of a professional forester, as defined in 14 CCR 1602 other than on federally owned lands shall be supervised by a forester (RPF). Work plans and documents reporting work done by or under the supervision of a forester (RPF) shall bear the signature and license number of the forester (RPF) responsible for said plans, work and reports.

1603. Seal

A seal may be used by a registrant. It shall be of the design shown here and shall not be less than one and one-half (1½) inches in diameter.



1604. Registration limited to Natural Persons.

Registration shall be determined on the basis of individual personal qualifications. No firm, company, partnership, or corporations will be issued a professional foresters license or specialty certificate.

1605. Fees.

(a) All fees required by provisions of the Code and rules of the Board shall be transmitted by money order, bank draft, or check and shall be made payable to Professional Foresters Registration.

(b) The following schedule of fees is hereby adopted pursuant to section 782 of the Code.

- (1) Application for Registration and License as a Professional Forester \$200
- (2) Annual Rate for License as a Professional Forester 95
- (3) Application for Exam for Specialty Certificate 200
- (4) Annual rate for Specialty Certificate 35
- (5) Duplicate License or Specialty Certificate 5
- (6) Renewal of License as a Professional Forester 190
- (7) Renewal of Specialty Certificate 70
- (8) Penalty fee for failure to apply for renewal as a Licensee or for a specialty certificate is \$25 for each full month of delinquency not to exceed \$150.00 total penalty fee.. . . . 25
- (9) Reinstatement Application following Withdrawal 15

(c) The renewal fee for registration and/or certification as a forestry specialist shall be waived when a license or certificate is issued less than ninety (90) days before the date on which it will expire.

(d) Application fees for registration, certification as a forestry specialist, or reinstatement following withdrawal, shall be retained by the Board regardless of the disposition of the application.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

1606. Address Change

Applicants for registration or holders of a certificate of registration and license, shall notify the Board in writing at its Sacramento office within ten days of any address changes, giving both the old and new address.

1607. Issuance, Expiration and Renewal of Licenses and Certificates

(a) Professional Foresters Licenses and Specialty Certificate shall be renewed on alternating years with odd-numbered licenses and certificates expiring on July 1 of odd-numbered years and even-numbered licenses and certificates expiring on July 1 of even-numbered years.

(b) Newly issued Professional Foresters Licenses and Specialty Certificates shall be valid, on payment of the appropriate fee, from the date of issuance to July 1 of odd-numbered years for odd-numbered licenses and certificates and July 1 of even-numbered years for even-numbered licenses and certificates. The appropriate fee for a newly issued license or certificates shall be based on proration of the annual rate for the license as provided in §1605(b)(2) or certificates as provided in §1605(b)(4) against the term of the newly issued license or certificate. Individuals reinstating their license or certificate from withdrawal shall pay the full renewal fee regardless of the actual length of time remaining in the applicable two year renewal cycle.

(c) Licenses and specialty certificates are not valid unless fees are paid prior to the expiration date. Written notification of delinquency shall be mailed no later than September 1 to those persons whose license or specialty certificate(s) expired. Individuals have sixty (60) days from the date of mailing the delinquency notice to reinstate the license or certificate by paying renewal fees and penalties, after which the Board shall revoke the license or certificate. By paying all renewal fees and penalties, within one year of the renewal date, the individual may reinstate a license or certificate(s) revoked because of delinquency.

1608. Withdrawals.

(a) The Board may, upon written request of a currently paid up licensee, grant a withdrawal of a forester's license or specialty certificate for a period not to exceed five years at any one time without penalty. The request shall state the reason for withdrawal, and the length of time for which withdrawal is requested. During withdrawal, the person shall not call him or herself a "professional forester" or provide professional forester services of any kind for pay or otherwise in California, or use their registration number anywhere.

(b) Withdrawals shall be granted only for good and sufficient reasons, including, but not limited to the following:

- (1) Active duty in the armed services of the United States.
- (2) Professional service exclusively outside of the State of California.
- (3) Ill health or disability.
- (4) Registration as a full time student in a college or university.
- (5) Retirement may be used as a reason only one time.

(c) Registrants shall be notified in writing whether the request for withdrawal is granted or denied.

(d) Prior to expiration of withdrawal status, notification of required reinstatement will be sent during the regular renewal period. If an application for reinstatement, along with the required fees prescribed, is not presented to the executive officer within the specified withdrawal period, the Board shall revoke the license or certificate.

(e) Reinstatement of a license shall be denied if:

- (1) The original withdrawal occurs as part of a stipulated agreement settling a formal disciplinary case, or
- (2) An RPF requested license withdrawal after being notified by the executive officer that a disciplinary investigation was being conducted concerning the RPF's license, and that the investigation and any disciplinary proceedings associated with it have not been concluded, including any penalties being imposed.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

1610. Delegation of Certain Functions.

(a) The power and discretion conferred by law upon the Board to receive and file accusations; issue notices of hearings, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code, issue subpoenas and subpoenas duces tecum, set and calendar cases for hearing and perform other functions necessary to the dispatch of the business of the Board in the Government Code prior to the hearing of such proceeding; and the certification and delivery of mailing of copies of decisions under Section 11518 of said Code are hereby delegated to and conferred upon the executive officer, or, if absent from the office of the Board, another person designated by the executive officer.

(b) Nothing herein prohibits the executive officer from re delegating duties to his subordinates as provided in Section 18572 of the Government Code.

(c) Unless otherwise directed by the Board, the executive officer may work directly with the committee on those matters which are pertinent to the Professional Foresters Law, Section 750 et seq. of the Code. The executive officer may be designated by the committee to report to the Board on its behalf.

1610.1. Committee Meeting and Reports.

(a) The Committee shall meet and report to the Board at least once every six months, or more frequently as necessary to fulfill its responsibilities to the Board under Section 763 of the Code, and shall refer to the Board all matters requiring Board approval.

(b) Reports and recommendations made by the Committee to the Board for approval or rejection by the Board and any action recommended or approved by the Board shall be carried out by the chairperson or a member of the Committee or by the Executive Officer in the manner approved by the Board.

1611. Reciprocity.

A Professional forester who is licensed in another state which maintains requirements and qualifications which are equal to or superior to those of the State of California may, upon successfully passing a special examination prescribed by the Board and payment of the required fees be registered as a professional forester, provided that said state observes these same rules of reciprocity.

1612. Discipline.

The committee may, upon its own motion, and shall upon motion of the Board or upon the verified complaint in writing of any person, cause investigation to be made of the actions of any person licensed as a professional forester. The committee shall make recommendations to the Board for any action provided by law.

1612.1 Disciplinary Guidelines

The Board establishes these guidelines to ensure that consequences in any disciplinary action of a Registered Professional Forester are known, and to facilitate uniformity of penalties. While recognizing that Administrative Law Judges must be free to exercise their discretion in a particular case, the Board desires that these guidelines be followed to the extent possible, and that any departures therefrom be noted and explained in the proposed decision.

The Board further desires that matters in extenuation and mitigation, as well as those in aggravation, be fully considered and noted in the proposed decision. The primary importance is the adverse effect the Registered Professional Forester's actions had, or will continue to have, on the protection of the public interest.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

(a) If convicted of a felony as defined in Section 778(a) and governed by Section 778.5, Public Resources Code, ranges of disciplinary action for conviction(s) are:

Maximum: Revocation of the license.

Minimum: Revocation stayed for 2 years on the following conditions:

(1) Actual suspension for 1 year.

(2) The respondent shall obey all laws and regulations related to the practice of forestry.

(b) If found guilty of fraud, deceit, or gross negligence in his or her practice, governed by Public Resources Code, Section 778(b), the ranges of disciplinary action for the violation(s) are:

Maximum: Revocation of the license.

Minimum: 6 months suspension stayed for 1 year on the following conditions:

(1) Actual suspension for 60 days.

(2) Within one year of the effective date of the Board's decision, the respondent shall successfully complete a training program, approved in advance by the Board as being specifically related to the area(s) of professional failure.

(3) Respondent must practice, for up to one year, with the review of work products by a Registered Professional Forester, or other specialist, as approved by the Board.

(4) The respondent shall obey all laws and regulations related to the practice of forestry.

(c) If found guilty of misrepresentation or material misstatement of fact in his or her practice, governed by Public Resources Code, Section 778(b), the ranges of disciplinary action for the violation(s) are:

Maximum: Revocation of the license.

Minimum: 90 days suspension stayed for 1 year with 15 days actual suspension, and one or more of the following:

(1) Within one year of the effective date of the Board's decision, the respondent shall successfully complete a training program, approved in advance by the Board as being specifically related to the area(s) of professional failure.

(2) Respondent must practice, for up to one year, with review of work products by a Registered Professional Forester, as approved by the Board.

(3) The respondent shall obey all laws and regulations related to the practice of forestry.

(d) If found guilty of incompetence governed by Section 778(b), Public Resources Code, in his or her practice, the ranges of disciplinary action for violation(s) are:

Maximum: Revocation of the license.

Minimum: Revocation stayed up to 3 years with license suspension until the completion of all of the following conditions:

(1) The respondent shall successfully complete a training program, approved in advance by the Board, specifically related to the area of incompetency, and

(2) The respondent shall take and be notified of passing the Registered Professional Foresters examination, and

(3) Respondent must work, at least six months full time equivalent, under the supervision of a Registered Professional Forester, with review of work products, as approved by the Board.

(4) The Respondent shall obey all laws and regulations related to the practice of forestry.

(e) If found guilty of fraud or deceit in obtaining a license, governed by Section 778(c), Public Resources Code, the ranges of disciplinary action for violation(s) are:

Recommended Action: Revocation of license.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

(f) If found guilty of aiding or abetting a violation of, or material failure to comply with the provisions of the Professional Foresters Law, governed by Section 778(d) and (e), Public Resources Code, the ranges for disciplinary action for violation(s) are:

Maximum: Revocation of the license

Minimum: 15 days actual suspension

(g) If found guilty of failure to materially comply with any provision of the Professional Foresters Law, the Board may issue a private reprimand when the respondent commits a failure of responsibility which warrants a level of discipline lesser than suspension. If the evidence is insufficient to support a private reprimand or an accusation, the executive officer may send a confidential letter expressing the committee's concerns. If there are insufficient grounds for discipline, the executive officer shall send a letter of exoneration to the respondent.

(h) In any of the above actions, the respondent shall submit such special reports as the Board may require. Said reports shall be designed to provide information as to those facets of his/her work which resulted in the disciplinary action.

1612.2. Notification of Disciplinary Action.

(a) Conditions of staying an order which suspends or revokes a license on any of the grounds for disciplinary action specified in Section 778, Public Resources Code, shall require:

(1) Respondent to submit to the Board, not later than thirty (30) days after the decision becomes effective, a complete list of all business and/or client names, addresses, and phone numbers with whom a current contractual or employment relationships exists. Furthermore, respondent shall notify the Board within ten (10) days of any new contractual or employment relationships over the duration of the stayed order. This information may be used to aid the Board in monitoring the performance of respondent over the period of the stayed order.

(2) Board to notify each business and/or client name submitted, or at its option require respondent to notify with Board approved language and proof of notification, of the offense(s), findings and discipline imposed.

(b) The Board shall provide public notice of disciplinary actions. The Board shall comply with the following standards when providing public notice:

(1) When the RPF is exonerated, their name and the specifics of the cases will not be made public. A summary of the case will be noticed in "Licensing News", and will include the following:

(A) Case number.

(B) Allegation: citing possible cause(s) of action under 14 CCR §1612.1.

(C) Authority: citations of applicable statutory and regulatory sections.

(D) Action: announcement of the exoneration and a general summary of the facts of the case.

(2) When disciplinary action results in the issuance of a PFEC Letter of Concern or Private Board Reprimand, the name of the RPF and specifics of the case will not be made public. A summary of the case will be noticed in "Licensing News", and will include the following:

(A) Case number.

(B) Allegation: citing possible cause(s) of action under 14 CCR §1612.1.

(C) Authority: citations of applicable statutory and regulatory sections.

(D) Action: announcement of the disciplinary action taken and a general summary of the facts of the case.

(3) When disciplinary action results in license suspension or revocation, the name of the RPF and the specifics of the case will be made public. A summary of the case will be noticed in the "Daily Recorder", "Licensing News", the meeting minutes of the Board, and announced in open session of the Board meeting at which the discipline was approved. These notices will include the following:

(A) Case number.

(B) RPF name and license number.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

(C) City of business at the time of notice.

(D) Allegation: citing possible cause(s) of action under 14 CCR §1612.1.

(E) Authority: citations of applicable statutory and regulatory sections.

(F) Action: announcement of the disciplinary action taken and a specific summary of the facts of the case.

(4) The information summarized in “Licensing News” under (b)(1), (b)(2), and (b)(3) above shall be available upon request to the public.

(c) The Board may provide notice to the news media of disciplinary actions. The Board shall comply with the following standards when providing notice to the media.

(1) Media releases shall occur in all instances when disciplinary action results in the following:

(A) Suspension or revocation based on any of the following cause(s):

(i) conviction of a felony as defined in Section 778(a) and governed by Section 778.5 of the Public Resources Code.

(ii) fraud.

(iii) deceit.

(iv) gross negligence.

(v) incompetence.

(B) The PFEC has recommended revocation or a suspension greater than 30 days for any cause under 14 CCR §1612.1.

(2) The media release shall be approved by the by the Board, and shall contain all information cited in subsection (b)(3).

(3) The media release shall be submitted to a newspaper of general circulation in the county(ies) where the infraction(s) occurred.

1613. Felony Substantial Relationship Criteria.

For the purposes of denial, suspension or revocation of a license pursuant to Division 1, Chapter 2.5, Article 3, Sections 774, 775, and 778 of the Public Resources Code (PRC), a felony shall be considered to be substantially related to the qualifications, functions, or duties of a registered professional forester (RPF), if, to a substantial degree, it evidences present or potential unfitness to perform the functions authorized by Article 3 of the Public Resources Code.

Such felonies may include, but not be limited to; felony convictions which demonstrate dishonesty or breach of fiduciary responsibility or which involve any of the following:

(a) violations of PRC 778, or felony sections of the Business and Professions Code, Health and Safety Code, and Public Contracts Code;

(b) damage to natural resources including, but not limited to, arson;

(c) violations related to:

(1) Division 1, Chapter 2.5, Article 3 of the Public Resources Code or

(2) Division 4, Part 2, Public Resources Code, or

(3) Division 1.5, Title 14, California Code of Regulations.

1614. Criteria for Rehabilitation.

When considering the specified conditions of denial or reinstatement from suspension or revocation of a license, the board, in evaluating the rehabilitation of the applicant and present eligibility for a license will consider the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial or reinstatement.

(b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration for grounds for denial or reinstatement which also could be considered as grounds for denial or reinstatement .

(c) The time that had lapsed since the commission of the act(s) or crime(s).

REGISTRATION OF PROFESSIONAL FORESTERS RULES

(d) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(e) Evidence, if any, of rehabilitation submitted by the applicant.

Article 2. Applications

1620. Applications.

(a) Applications for registration as a professional forester or as a certified forestry specialist shall be:

(1) Filed on a form prescribed by the Board

(2) Filed at the Sacramento office of the Board, and accompanied by the required application fee.

(3) Subscribed and certified to "under penalty of perjury" as provided by Section 2015.5, Code of Civil Procedure.

(4) Typewritten, except that applicants located without access to typewriters, may so state, and submit applications printed legibly by hand.

1620.1. Professional and Personal References.

An applicant shall include in the application for registration the names and addresses of two qualified foresters as references, who are familiar with the professional work and three responsible members of the community who are not foresters who can attest to the character and business integrity of the applicant. Such references may be consulted by the examining committee regarding the qualifications of the applicant.

1620.2. Application Processing.

(a) The applicant shall be informed in writing by the Executive Officer, within 90 days of receipt of the application, whether such application is complete and accepted for filing or is deficient and what specific information is required. The Examining Committee may, at a later time, request clarification of information contained in the application or supporting documents as provided in 1620.3.

(b) The applicant shall be informed, in writing, of the Board decision on registration within 360 days of filing. Postponement of the examination by the applicants shall extend this deadline in the same amount of time as the postponement.

(c) The actual minimum, median and maximum processing times for an application from the time of receipt of the application until the board makes a final decision on the application are:

(1) Minimum: 118 days

(2) Median: 152 days

(3) Maximum: 360 days

1620.3 Evidence of Qualifying Experience.

(a) The application, and any supporting documentation, shall present evidence of qualifying experience in forestry work, and any educational degree(s) substituted therefor:

(b) The qualifying experience for registration shall be computed to the final application filing date for each examination.

(c) Applicants claiming credit under educational provisions shall document such claims with an official transcript of record or comparable document or certified copy thereof, issued by the educational institution awarding the degree. Such records or transcripts shall be sent by the institution directly to the Board.

1621. Evaluation of Qualification to Take the Examination.

In complying with Sections 768 and 769(b) of the Code, the standards set forth in Sections 1621.1, 1621.2, 1621.3, 1621.4, 1622, and 1622.2 of this article are used to evaluate qualifications for authorization to take the exam.

REGISTRATION OF PROFESSIONAL FORESTERS RULES

1621.1. Qualifying Forestry Work Experiences.

(a) “Forestry work,” within the meaning of Section 769 of the Code, includes those activities which demonstrate professional competence in the science, art, and practice of managing and using for human benefit while protecting the public interest, the natural resources that occur on and in association with, forest land.

(b) Forestry experience qualifying to take the exam shall demonstrate an increasing level of responsibility and complexity over the required time, and is more particularly classified as:

(1) Forest management, which includes that branch of forestry concerned with overall administration in forest economics, legal and social aspects; forest mensuration, forest regulation, and the development of access for protection and management of the resource.

(2) Silviculture, which includes the science and practice of controlling the composition, constitution, and growth of forests, including also stand improvement, forest nursery production, the techniques of seeding and planting, and reforestation.

(3) Forest protection, which includes the prevention and control of damage to forests, inclusive of control of forest pests; the prevention and control of wildfire; the protection of soils from erosion, and the reduction and repair of damage resulting from all of these and those related to climatic agent. Up to two years of the activities in this subsection qualify except when Section 1622(c) are met.

(4) Forest utilization which includes scaling, and logging involving felling, bucking, choker setting, and skidding/yarding. Up to two years of the activities in this subsection qualify except when Section 1622 of this article applies: additional time can qualify when conditions in 1622(c) are met.

(5) Forest and watershed management planning, initiated and carried out in:

(A) forest working plans,

(B) forest practice standards,

(C) management contracts,

(D) litigation reports and testimony,

(E) trespass,

(F) the development, maintenance and protection of wildlife habitat and forest range resources,

(G) forest recreation and environmental studies, and

(H) reconnaissance and mapping in conservation of forest and watershed lands and the yield thereof, including the investigation of wildlands soils.

(6) Other forest activities, including timber appraisals, forestry research, urban forestry, and teaching college or university courses in forestry.

1621.2. Non-Qualifying Forestry-Related Work Experience.

Some forestry-related activities are not considered “forestry work” experience within the meaning of Section 769 of the Code: landscape gardening; horticulture; arboriculture; tree surgery; loading and hauling of logs or other forest products, operations of wood manufacturing or remanufacturing plants; fire lookouts, dispatchers, and fire equipment operators; and agricultural pursuits not related to tree growing.

1621.3. Work Experience Obtained While In a Degree Program.

The following criteria applies to substitutions for forestry work experience toward the seven year requirement. No combination of education and work experience may be counted as more than twelve (12) months for any consecutive twelve month period. Thus, periods worked while in a substituted educational degree program do not qualify because this time is already included in the degree. Work periods that exceed the amount of degree time substituted do qualify.

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1621.4. Substitution of Education for Experience.

(a) For the purpose of this article and in accordance with Section 769(b) of the Code, a course of study shall be deemed a major in forestry only (1) if the awarding institution specifically designated the course of study as a major in forestry or a direct derivative thereof such as a major in forest management or a major in forest science, and (2) if it provides the significant concepts in a working knowledge of forest biology, forestry in the social context, forest resources inventory, forest ecosystem management, and forest resources administration. The forest courses presenting such concepts and working knowledge shall be at a level qualifying for transfer credit in a program leading to the Bachelor of Science degree with a major in forestry at either the University of California, Berkeley, California Polytechnic State University at San Luis Obispo, or at Humboldt State University.

In accordance with these standards, a “major in forestry” for the purposes of this act are majors in forestry offered in California, at the University of California, Berkeley, California Polytechnic State University at San Luis Obispo, and Humboldt State University and the programs in forestry offered in other states, which meet the above standards including such programs offered at universities accredited at the time of applicant graduation by the Society of American Foresters (SAF) as of their most current list. The list(s) may be obtained from Professional Foresters Registration, or SAF, 5400 Grosvenor Lane, Bethesda, Maryland, 20814-2198.

(b) The following degrees are deemed the equivalent of four years of forestry experience:

(1) A Bachelor of Science degree with a Major in Forestry, or possession of a Bachelor of Science in Forestry degree from any college or university in the United States or Canada.

(2) A degree in forestry, however designated, from a foreign college or university based on completion of a program of at least four years of university level work with a major in forestry, subject to review and favorable recommendation of the Examining Committee.

(3) A Master of Forestry degree awarded an applicant who holds either a Bachelor of Science degree or a Bachelor of Arts degree with a major in a field other than forestry may submit such evidence as a comparable degree to the Bachelor of Science in Forestry degree.

(c) The Committee shall evaluate and determine, on a case-by-case basis, which other college or university degrees may be substituted as qualifying forestry work experience. In no case can any of the following be combined for more than four years substitution.

(1) A Bachelor of Science degree in a forestry-related field is not equivalent to a Bachelor of Science degree with a major in forestry. No more than two (2) years shall be substituted for such forestry-related fields including, but not limited to , wood science and technology, wildlife management, range management, soil science or conservation of natural resources.

(2) A Master of Science or Doctor of Philosophy degree in forestry or forestry-related fields can be substituted only when subsection 1621.4(b) of this article does not apply. No more than one (1) year for each of these degrees shall be substituted. A Master of Forestry degree is substituted for only one (1) year unless subsection 1621.4 (b)(3) of this article applies.

(3) An Associate of Science or Associate of Arts with a “major in forestry” from one of the two-year colleges recognized at the time of applicant graduation by the Society of American Foresters can be substituted for two (2) years experience. The lists(s) may be obtained from Professional Foresters Registration, or SAF, 5400 Grosvenor Lane, Bethesda, Maryland, 20814-2198.

1622. Three Years of “Having Charge of Forestry Work,” or “Under the Supervision of a Person Registered.”

(a) The minimum of three (3) years “having charge of forestry work,” or “forestry work under the supervision of a person registered, or qualified for, but exempt from registration” as specified in Sections 757 and 769(b) of the Code is evaluated using the criteria in subsection (b), below.

(b) “Supervision” shall be deemed adequate to meet the three year requirement if it includes the following elements:

(1) Supervisor is able to hire and fire or effectively recommend same, or is able to clearly withdraw professional responsibility for forestry related matters.

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(2) Supervisor must perform regular and timely quality control, work review and inspection, both in the office and in the field, and be able to take, or effectively recommend, corrective actions where necessary. The frequency of review, inspection and guidance shall take into consideration the experience of the non-RPF and technical complexity of the job, but shall be sufficiently frequent to ensure the accomplishment of work to professional standards.

(c) The following limitations apply to the requirement of three years “having charge of forestry work,” or “under the supervision of a person registered.”

(1) Forestry work stated in subsection 1621.1(b)(3) and 1621.1(b)(4) of this article must be performed at planning and supervision levels; scaling does not qualify unless it is part of an apprentice trainee program under the direct supervision of an RPF.

(2) Only the Master of Forestry degree, in conjunction with a qualifying Bachelor of Science degree with a major in forestry, may be substituted for one of the three years required as provided in Section 769 of the Code.

1622.2. Contracting Forestry Work Experience.

Forestry experience obtained while working as a contractor may be claimed as having charge of forestry work, or forestry work under the supervision of a person registered, or qualified but exempt from, registration provided:

(a) The applicant submits a copy of the contract and any documentation necessary to verify the appropriateness of experience.

(b) The contract required the work of the contractor to be supervised as stated in Section 1622(b) of this article.

(c) The contract or documentation specifies the various items of supervision including, but not limited to: training; frequency of contact both for professional and contract compliance purposes; office and field review; and how corrective actions can be taken.

(d) The contract or documentation has the names, current addresses, and phone numbers of each qualified forester who directly carries out this supervision. If the supervisor is Registered, the license number must be included.

1626. Denial of Application.

If, in the judgement of the committee, based upon the evidence submitted, the applicant lacks the required qualifications, the committee shall deny the application without prejudice. The applicant shall be notified in writing of the reasons for denial and of the right to appeal such denial as provided in Section 1647 of this article.

1628. Abandoned Applications.

In the absence of special circumstances, the Board shall consider an application abandoned when:

(a) The applicant fails to submit a registration fee or specialty fee within sixty (60) days of the date of the letter of acceptance for registration or certification.

(b) The applicant fails to appear for a scheduled examination at the time set without obtaining an approved postponement.

(c) The applicant, after two postponements, fails to appear for the examination at the appointed time.

Article 2.5. Applications for Registration Without Examination.

(no sections)

Article 3. Examinations

1640. Notification of Authorization to Take Examination.

Not less than thirty (30) days prior to the examination, each applicant qualified to take the exam shall be notified in writing of the date, time, and place of the examination.

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1640.1. Study Exams.

Copies of examination questions for the three (3) year period may be obtained upon payment of a fee covering direct cost of duplication as determined by the executive officer.

1640.2. Scheduling Examinations.

An application received less than sixty (60) days prior to an announced examination date may be scheduled for the next examination.

1640.3. Examinations Prescribed.

The examination shall test the applicant's understanding of the significant concept in and working knowledge of

- (1) Forest Economics,
- (2) Forest Protection,
- (3) Silviculture,
- (4) Forest Resources Management,
- (5) Forest Resources Use,
- (6) Dendrology,
- (7) Forest Ecology,
- (8) Forest Mensuration,
- (9) Forest Policy, and
- (10) Forest Administration, as these apply to the management of forest lands to produce goods and services, and in terms of the environmental effects of such activities.

The committee shall prepare and administer an examination on the foregoing principles whenever the committee deems it necessary, but not less than twice per year. The special examination which may be administered on the basis of reciprocity to a person licensed in another state may be limited in scope to those subjects which in the opinion of the committee are unique to the practice of forestry in California .

1641. Examination Facilities.

The Executive Officer shall make all of the necessary arrangements to provide adequate facilities and assistants to conduct examinations in such locations as may be required to accommodate the number of applicants to be examined.

1642. Examination Irregularities.

Examinees are forbidden to receive unauthorized assistance during the examination. Communication between examinees or the use of unauthorized material or matter or devices during the examination is strictly prohibited. An applicant engaging in such conduct during the examination shall be notified that the examination shall not be graded, and shall be denied the opportunity to take the following two examinations.

1643. Successful Completion of Examination.

Following successful completion of the prescribed examination, the committee shall recommend to the Board approval for registration or certification of each qualified applicant.

1644. Denial of Application for Failure to Pass Examination.

If an applicant fails to obtain a passing grade in the prescribed examination, the committee shall deny the application without prejudice. The applicant shall be notified in writing of the right to appeal the examination following the procedures provided in Section 1647 of this article.

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1645. Inspection of Examination Papers.

An applicant who fails to receive a passing grade in the written examination may, within thirty (30) days of the examination results notice, request in writing:

- (a) A copy of the examination questions, and/or
- (b) Obtain a copy of his/her own answers which will be mailed after receipt of payment of a fee covering the direct cost of duplication as determined by the executive officer.
- (c) The applicant shall not be provided any answers of others, or the exam key. The Executive Officer shall not discuss any specific answers with the applicant because Expert Examiners mutually determine the answer scores.

1647. Appeal Procedure.

Within thirty (30) days of mailing or personal service notice, any real party of interest may appeal the actions of the Committee or Executive Officer to the Board for a review in accordance with Section 765 of the Code. The appeal for review shall be made in writing, stating the reason therefore and citing the items against which the appeal is made. The Board's Executive Officer shall conduct a review thereon, and provide to the applicant the reasons for the decision along with a Notice of Defense form as required by Government Code 11506. The person may, by completing and returning the form, contest the results of the Board's executive officer review at a hearing with an Administrative Law Judge to assist the Board in its final determination in accordance with Chapter 5 of Part 1, Division 3, Title 2 of the Government Code, commencing with Section 11500.

Article 4. Miscellaneous

1650. Specialties.

(a) As an alternative to being registered as a RPF, any person qualified pursuant to this Article is eligible for certification in a specialty. Both RPFs and non-RPFs are eligible for certification in a specialty. Only a person registered as a Certified Specialist may use this title of that specialty.

A certificate in each specialty created will be issued by the Board pursuant to the standards contained in Section 772 of the Code. Specialties will be created by regulation as the need arises.

(b) To protect the public interest, the following certified specialties shall be implemented and overseen by the Executive Officer, with the assistance of the Examining Committee:

(1) Certified Rangeland Management Specialty

(c) For independent certification programs submitted by a professional society or public agency pursuant to Section 772 of the Code, the following process shall apply:

(1) When a professional society or public agency establishes an internal certification panel for any or all of the following purposes: reviewing an applicant's qualifications, administering an examination to evaluate an applicant's professional understanding, awarding certifications, reviewing allegations of misconduct, and administering discipline; the panel members shall have first been certified by the Board as meeting the professional qualifications and standards for that Certified Specialty before undertaking their responsibilities pursuant to this Section.

The certification of the panel members may be done by a subcommittee of the PFEC appointed by the Board and composed of resource professionals in good standing representing a broad cross section of employment and expertise in that specialty. All subsequent panel members shall also be certified in this manner.

(2) The PFEC shall be notified by the appropriate society or public agency of any Certified Specialist who is guilty of violations of professional standards and issued discipline pursuant to the respective certification program. The Certified Specialists shall be subject to disciplinary actions by the Board as defined in this chapter for violation of those standards, or for violation of those standards promulgated by the Board pursuant to Section 778 of the Code.

(3) The PFEC shall be notified of any proposed actions to be taken by a professional society or public agency which may affect the specialty certification program of the society or public agency, including but not limited to modification of the requirements for certification or professional

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accountability. Any modification to a specialty certification program must be approved by the PFEC prior to implementation or the program may be rejected by the Board. The modifications shall not significantly alter the qualifications and accountability within the original certification.

(4) Prior to March 1 of each calendar year, those Professional Societies and public agencies with independent certification programs shall submit to the PFEC a report which describes the previous calendar year accomplishments of the certification program, including but not limited to the number of applicants for certification, the approvals, denials, copies of examinations, and a summary of disciplinary actions, to insure the program fully protects the public interest. Failure to submit the report may result in a full review which may result in the rejection of the Certification program by the Board.

(d) All Certified Specialists are subject to annual registration and fees for renewal of Specialty Certificates pursuant to 14 CCR, Sections 1605 and 1607.

1651. Certified Rangeland Management Specialty.

(a) A “Certified Rangeland Manager (CRM)” is a person who provides services pursuant to 14 California Code of Regulations (CCR) 1602, at the request of the landowner or hiring agent, relating to the application of scientific principles to the art and science of managing rangelands and range. A Certified Rangeland Manager shall perform professional services only in those subjects in which he or she is competent by training and experience.

(b) When a CRM is providing range management services related to the production of forage and livestock on forested landscapes, a RPF shall be consulted if there are potential impacts on related forest resources.

(c) Qualifications as a Certified Rangeland Manager may be achieved by submitting evidence of certification by the California Section of the Society for Range Management (CA-SRM) as a Certified Rangeland Manager pursuant to its “Program for Certification of Professional Rangeland Managers” (PCPRM) dated June 5, 1992 and amended on November 4, 1993.

FOREST ROADBED MATERIALS

The Surface Mining and Reclamation Act of 1975 (SMARA) requires that a reclamation plan be approved for all sites where there is surface mining of minerals for commercial purposes and the removal of overburden in total amounts greater than 1000 cubic yards in any one location. In 1996, changes were made to SMARA that allow for special provisions for excavation or grading of materials for roadbed construction and maintenance conducted in connection with timber operations of forest management on land owned by the same person or entity. These provisions are excerpted below. Complete provisions, PRC 2200 *et seq.* and 2700 *et seq.*, may be obtained from Barclays Publishers, 1-800-888-3600, or on the Internet at www.leginfo.ca.gov/California_Law/Public_Resources_Code.

Also included below are excerpts from the California Mining and Geology Board Reclamation Regulations. For complete provisions see the same sources as above, but on the Internet, rather than the Public Resources Code, select the California Code of Regulations, sections 3500 *et seq.*

SURFACE MINING AND RECLAMATION ACT OF 1975

Public Resources Code, Division 2, Chapter 9

Article 1. General Provisions

2710. Chapter Title.

This chapter shall be known and may be cited as the Surface Mining and Reclamation Act of 1975.

2711. Legislature Findings.

(a) The legislature hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

(b) The Legislature hereby finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

(c) The Legislature further finds that the surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and the reclamation operations and the specifications therefore may vary accordingly.

2712. Legislature Intent. It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operation so as to assure that:

(a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.

(b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

(c) Residual hazards to the public health and safety are eliminated.

2713. Private Property Rights. It is not the intent of the Legislature by the enactment of this chapter to take private property for public use without payment of just compensation in violation of the California and United States Constitution.

FOREST ROADBED MATERIALS

2714. Exemptions. This chapter does not apply to any of the following activities:

(j) (1) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operation or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.

(2) This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.

STATE MINING AND GEOLOGY BOARD RECLAMATION REGULATIONS

California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1

Article 9. Reclamation Standards

3704. Performance Standards for Backfilling, Regrading, Slope Stability, and Recontouring.

Backfilling, regrading, slope stability, and recontouring shall conform with the following standards:

(f) Cut slopes, including final highwalls and quarry faces, shall have a minimum slope stability factor of safety that is suitable for the proposed end use and conform with the surrounding topography and/or approved end use.

3706(d). Performance Standards for Drainage, Diversion Structures, Waterways, and Erosion Control.

(d) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gullying, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20 year/1 hour intensity storm event.

END

CALIFORNIA FOREST PRACTICE RULES 2003.