

Assembly Bill No. 1414

CHAPTER 584

An act to amend Sections 4514, 4514.5, 4526, 4526.5, 4527, 4527.5, 4528.5, 4551.5, 4553, 4561, 4562.7, 4583.2, 4583.5, 4584, and 4603, to amend the heading of Article 3 (commencing with Section 4531) of Chapter 8 of Part 2 of Division 4 of, and to repeal Sections 4522, 4522.5, 4532, 4533, 4534, 4536, 4537, 4538, 4539, 4540, 4561.2, and 4561.3 of, the Public Resources Code, and to repeal Section 14 of Chapter 1290 of the Statutes of 1989, relating to forestry.

[Approved by Governor October 8, 2011. Filed with
Secretary of State October 8, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, Committee on Natural Resources. Forestry: timber harvesting.

(1) The Z'berg-Nejedly Forest Practice Act of 1973, among other things, prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection.

The act defines "timber operations" as the cutting or removal or both of timber or other solid wood forest products from timberlands for commercial purposes, together with all incidental work, including site preparation that involves disturbances of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988. The act also requires rules and regulations adopted by the Board of Forestry and Fire Protection to apply to the conduct of timber operations that includes site preparation involving disturbances of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988.

This bill would delete the January 1, 1988, date limitation on the definition of "timber operations." The bill would also delete the January 1, 1988, date limitation with respect to rules and regulations relating the site preparation work.

(2) The act requires the board to divide the state into not less than 3 districts by taking into account differing physical characteristics, as provided. The act requires district technical advisory committees to advise the board in the establishment of district forest practice rules to govern timber operations on timberlands within the district.

This bill would repeal and delete provisions relating to the district technical advisory committees.

(3) The act requires a timber owner, defined as a person who owns timberland or cutover land, among other types of land, to file a timber harvesting plan with the department on all or any part of timberland that he

or she plans to harvest for timber. The act defines “cutover land” to mean land that has borne a crop of commercial timber from which at least 70% of the merchantable original growth timber stand has been removed by logging or destroyed by fire, among other things.

This bill would repeal the definition of, and delete the reference to, cutover land.

(4) The act requires timberland harvested between January 1, 1974, and the adoption of stocking standards, to be classified as adequately stocked if as a result of stocking that took place following the timber harvest, specified minimum standards are met. The act requires all stocking requirements that were in existence prior to January 1, 1974, to remain in full force and effect for timberland that was harvested prior to that date. The act also classifies areas as acceptably stocked if it contains at least 5 countable trees for each tree that was harvested, if the department had determined that the area was not acceptably stocked prior to any timber harvesting activities that took place between the effective date of the act and the adoption of permanent stocking standards.

The bill would delete and repeal these provisions.

(5) Existing law requires the board to adopt rules for control of timber operations that will result or threaten to result in unreasonable effects on the beneficial uses of the waters of the state. Existing law requires the rules to include rules for, among other things, minimizing the effects of erosion on watercourses and lakes by doing certain things, including maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings, as provided.

The bill would delete the requirement that the board adopt rules relating to minimizing the effects of erosion on watercourses and lakes by maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings, as provided.

(6) Existing law authorizes the board to exempt from the act a person engaged in forest management whose activities are limited to certain things, including the cutting, removal, or sale of timber or other solid wood forest products from the species *Taxus brevifolia* (Pacific Yew), as provided.

This bill would delete this authorization.

(7) The bill would make other technical changes to the act.

The people of the State of California do enact as follows:

SECTION 1. Section 4514 of the Public Resources Code is amended to read:

4514. This chapter or a ruling, requirement, or policy of the board is not a limitation on the following:

(a) On the power of a 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 or her own motion, to bring an action in the name of the people of the State of California to enjoin pollution or nuisance.

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

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

SEC. 2. Section 4514.5 of the Public Resources Code is amended to read:

4514.5. A person may commence an action on his or her 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 a duty imposed upon them under this chapter.

SEC. 3. Section 4522 of the Public Resources Code is repealed.

SEC. 4. Section 4522.5 of the Public Resources Code is repealed.

SEC. 5. Section 4526 of the Public Resources Code is amended to read:

4526. “Timberland” means land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

SEC. 6. Section 4526.5 of the Public Resources Code is amended to read:

4526.5. “Timber operator” means a person who is engaged in timber operations or who contracts with others to conduct the operations on his or her behalf, except a person who is engaged in timber operations as an employee with wages as his or her sole compensation.

SEC. 7. Section 4527 of the Public Resources Code is amended to read:

4527. (a) (1) “Timber operations” means the cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the incidental work, including, but not limited to, construction and maintenance of roads, fuelbreaks, firebreaks, stream crossings, landings, skid trails, and beds for the falling of trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, but excluding preparatory work such as treemarking, surveying, or roadflagging.

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

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

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

(1) It is located within 500 feet of the boundary of an urban wild land interface community at high risk of wildfire, as defined on pages 752, et seq. of Number 3 of Volume 66 (January 4, 2001) of the Federal Register, as that definition may be amended from time to time. For purposes of this paragraph, “urban wildland interface community at high risk of wildfire” means an area having one or more structures for every five acres.

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

(3) The trees to be removed will not be processed into logs or lumber.

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

(5) The removal of surface and ladder fuels is consistent with paragraph (9) of subdivision (k) of Section 4584.

SEC. 8. Section 4527.5 of the Public Resources Code is amended to read:

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

SEC. 9. Section 4528.5 of the Public Resources Code is amended to read:

4528.5. This chapter does not apply to a person who engages in activities regulated by this chapter, as an employee, with wages as his or her sole compensation.

SEC. 10. The heading of Article 3 (commencing with Section 4531) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code is amended to read:

Article 3. Districts

SEC. 11. Section 4532 of the Public Resources Code is repealed.

SEC. 12. Section 4533 of the Public Resources Code is repealed.

SEC. 13. Section 4534 of the Public Resources Code is repealed.

SEC. 14. Section 4536 of the Public Resources Code is repealed.

SEC. 15. Section 4537 of the Public Resources Code is repealed.

SEC. 16. Section 4538 of the Public Resources Code is repealed.

SEC. 17. Section 4539 of the Public Resources Code is repealed.

SEC. 18. Section 4540 of the Public Resources Code is repealed.

SEC. 19. Section 4551.5 of the Public Resources Code is amended to read:

4551.5. 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, 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 treatment 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.

SEC. 20. Section 4553 of the Public Resources Code is amended to read:

4553. The rules and regulations shall be continuously reviewed and may be revised. During the formulation or revision of the rules and regulations, the board 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.

SEC. 21. Section 4561 of the Public Resources Code is amended to read:

4561. 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) A countable tree that is not more than four inches in diameter at breast height to count as one.

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

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

(b) (1) 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.

(2) 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.

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

SEC. 22. Section 4561.2 of the Public Resources Code is repealed.

SEC. 23. Section 4561.3 of the Public Resources Code is repealed.

SEC. 24. Section 4562.7 of the Public Resources Code is amended to read:

4562.7. 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 that 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 both 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.

SEC. 25. Section 4583.2 of the Public Resources Code is amended to read:

4583.2. 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 that in the forester's judgment threaten the attainment of the resource conservation standards or other regulations promulgated pursuant to this chapter.

SEC. 26. Section 4583.5 of the Public Resources Code is amended to read:

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

SEC. 27. Section 4584 of the Public Resources Code is amended to read:

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

(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.

(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. A 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, shall not obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has as a member, or if a corporation or other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual 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 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 pursuant to this subdivision to expire if there is a change in timberland ownership. The person who originally submitted an application for an exemption pursuant to this subdivision shall notify the department of a change in timberland ownership on or before five calendar days after a change in ownership.

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

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

(h) Easements granted by a right-of-way construction agreement administered by the federal government if 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) (1) The cutting or removal of trees in compliance with Sections 4290 and 4291 that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuel break 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 Standards 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.

(2) (A) The cutting or removal of trees pursuant to this subdivision is 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 shall 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 a 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. This paragraph does not 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.

(j) (1) Until January 1, 2013, the harvesting of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns.

(2) The board may authorize an exemption pursuant to paragraph (1) only if the tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand, and the tree harvesting area will not exceed 300 acres.

(3) The notice of exemption, which shall be known as the Forest Fire Prevention Exemption, may be authorized only if all of the conditions specified in paragraphs (4) to (10), inclusive, are met.

(4) A registered professional forester shall prepare the notice of exemption and submit it to the director, and include a map of the area of timber operations that complies with the requirements of paragraphs (1), (3), (4),

and (7) to (12), inclusive, of subdivision (x) of Section 1034 of Title 14 of the California Code of Regulations.

(5) (A) The registered professional forester who submits the notice of exemption shall include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels.

(B) The level of residual stocking shall be consistent with maximum sustained production of high-quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Stocking shall not be reduced below the standards required by any of the following provisions that apply to the exemption at issue:

(i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 913.3 of Title 14 of the California Code of Regulations.

(ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 933.3 of Title 14 of the California Code of Regulations.

(iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 953.3 of Title 14 of the California Code of Regulations.

(C) If the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches in diameter at breast height, a minimum of 100 trees over four inches in diameter at breast height shall be retained per acre for Site I, II, and III lands, and a minimum of 75 trees over four inches in diameter at breast height shall be retained per acre for Site IV and V lands.

(6) (A) The registered professional forester who submits the notice shall include selection criteria for the trees to be harvested or the trees to be retained. In the development of fuel reduction prescriptions, the registered professional forester should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations.

(B) All trees that are harvested or all trees that are retained shall be marked or sample marked by or under the supervision of a registered professional forester before felling operations begin. The board shall adopt regulations for sample marking for this section in Title 14 of the California Code of Regulations. Sample marking shall be limited to homogenous forest stand conditions typical of plantations.

(7) (A) The registered professional forester submitting the notice, upon submission of the notice, shall provide a confidential archaeology letter that includes all the information required by any of the following provisions that apply to the exemption at issue:

(i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 929.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 929.5 of Title 14 of the California Code of Regulations.

(ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 949.1 of Title 14 of the California Code of Regulations, and include site

records if required pursuant to subdivision (g) of that section or pursuant to Section 949.5 of Title 14 of the California Code of Regulations.

(iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 969.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 969.5 of Title 14 of the California Code of Regulations.

(B) The director shall submit a complete copy of the confidential archaeological letter and two copies of all required archaeological or historical site records to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of notice submittal to the director. Before submitting the notice to the director, the registered professional forester shall send a copy of the notice to Native Americans, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(8) Only trees less than 18 inches in stump diameter, measured at eight inches above ground level, may be removed. However, within 500 feet of a legally permitted structure, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches in stump diameter, trees less than 24 inches in stump diameter may be removed if that removal complies with this section and is necessary to achieve the goal of fuel reduction. A fuel reduction effort shall not violate the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(9) (A) This subparagraph applies to areas within 500 feet of a legally permitted structure and in areas prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency. The board shall adopt regulations for the treatment of surface and ladder fuels in the harvest area, including logging slash and debris, low brush, small trees, and deadwood, that could promote the spread of wildfire. The regulations adopted by the board shall be consistent with the standards in the board's "General Guidelines for Creating Defensible Space" described in Section 1299 of Title 14 of the California Code of Regulations. Postharvest standards shall include vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:

(i) Ladder and surface fuels shall be spaced to achieve a vertical clearance distance of eight feet or three times the height of the postharvest fuels, whichever is the greater distance, measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the surface fuels.

(ii) Horizontal spacing shall achieve a minimum separation of two to six times the height of the postharvest fuels, increasing spacing with increasing slope, measured from the outside branch edges of the fuels.

(iii) Dead surface fuel depth shall be less than nine inches.

(iv) Standing dead or dying trees and brush generally shall be removed. That material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subparagraph applies to all areas not described in subparagraph (A).

(i) The postharvest stand shall not contain more than 200 trees over three inches in diameter per acre.

(ii) Vertical spacing shall be achieved by treating dead fuels to a minimum clearance distance of eight feet measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the dead surface fuels.

(iii) All logging slash created by the timber operations shall be treated to achieve a maximum postharvest depth of nine inches above the ground.

(C) The standards required by subparagraphs (A) and (B) shall be achieved on approximately 80 percent of the treated area. The treatment shall include chipping, removing, or other methods necessary to achieve the standards. Ladder and surface fuel treatments, for any portion of the exemption area where timber operations have occurred, shall be done within 120 days from the start of timber operations on that portion of the exemption area or by April 1 of the year following surface fuel creation on that portion of the exemption area if the surface fuels are burned.

(10) Timber operations shall comply with the requirements of paragraphs (1) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations. Timber operations in the Lake Tahoe region shall comply instead with the requirements of paragraphs (1) to (16), inclusive, of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(11) After the timber operations are complete, the department shall conduct an onsite inspection to determine compliance with this subdivision and whether appropriate enforcement action should be initiated.

SEC. 28. Section 4603 of the Public Resources Code is amended to read: 4603. The Attorney General may, on his or her own motion or at the request of the board, bring an action to enforce compliance with the rules and regulations of the board and this chapter.

SEC. 29. Section 14 of Chapter 1290 of the Statutes of 1989 is repealed.