

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1867

Introduced by Assembly Member Patterson
(Coauthor: Assembly Member Harkey)
(Coauthors: Senators Cannella, Fuller, Huff, and Vidak)

February 19, 2014

An act to amend ~~Sections 4584 and 4584.5 of, and to add Section 4584.1 to,~~ *Section 4584* of the Public Resources Code, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

AB 1867, as amended, Patterson. Timber harvest plans: exemption: reducing flammable materials.

The Z'berg-Nejedly Forest Practices Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The act authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities, including, the cutting or removal of trees in compliance with existing law relating to defensible space 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 no more than 150 feet on each side from an approved and legally permitted structure, as provided.

This bill would ~~instead provide that the act does not apply also authorize the board to exempt from some or all of those provisions of~~

~~the act a person engaging in engaged in forest management whose activities are limited to the cutting or removal of trees in compliance with existing law relating to defensible space 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 no more than 300 feet on each side from an approved and legally permitted habitable structure, as provided. The bill would also authorize the landowner to sell the timber that is cut and removed pursuant to this provision. The bill would require the board to adopt emergency regulations necessary to implement the above provision.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 4584 of the Public Resources Code is
- 2 amended to read:
- 3 4584. Upon determining that the exemption is consistent with
- 4 the purposes of this chapter, the board may exempt from this
- 5 chapter, or portions of this chapter, a person engaged in forest
- 6 management whose activities are limited to any of the following:
- 7 (a) The cutting or removal of trees for the purpose of
- 8 constructing or maintaining a right-of-way for utility lines.
- 9 (b) The planting, growing, nurturing, shaping, shearing, removal,
- 10 or harvest of immature trees for Christmas trees or other ornamental
- 11 purposes or minor forest products, including fuelwood.
- 12 (c) The cutting or removal of dead, dying, or diseased trees of
- 13 any size.
- 14 (d) Site preparation.
- 15 (e) Maintenance of drainage facilities and soil stabilization
- 16 treatments.
- 17 (f) Timber operations on land managed by the Department of
- 18 Parks and Recreation.
- 19 (g) (1) The one-time conversion of less than three acres to a
- 20 nontimber use. A person, whether acting as an individual or as a
- 21 member of a partnership, or as an officer or employee of a
- 22 corporation or other legal entity, shall not obtain more than one
- 23 exemption pursuant to this subdivision in a five-year period. If a
- 24 partnership has as a member, or if a corporation or other legal

1 entity has as an officer or employee, a person who has received
2 this exemption within the past five years, whether as an individual
3 or as a member of a partnership, or as an officer or employee of a
4 corporation or other legal entity, then that partnership, corporation,
5 or other legal entity is not eligible for this exemption. "Person,"
6 for purposes of this subdivision, means an individual, partnership,
7 corporation, or other legal entity.

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

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

13 (ii) Authorize the department to inspect the sites approved in
14 conversion applications that have been approved on or after January
15 1, 2002, in order to determine that the conversion was completed
16 within the two-year period described in subparagraph (B) of
17 paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of
18 the California Code of Regulations.

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

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

30 (B) The application form for the exemption pursuant to
31 paragraph (1) shall prominently advise the public that a violation
32 of the conversion exemption, including a conversion applied for
33 in the name of someone other than the person or entity
34 implementing the conversion in bona fide good faith, is a violation
35 of this chapter and penalties may accrue up to ten thousand dollars
36 (\$10,000) for each violation pursuant to Article 8 (commencing
37 with Section 4601).

38 (h) Easements granted by a right-of-way construction agreement
39 administered by the federal government if timber sales and
40 operations within or affecting these areas are reviewed and

1 conducted pursuant to the National Environmental Policy Act of
2 1969 (42 U.S.C. Sec. 4321 et seq.).

3 (i) (1) The cutting or removal of trees in compliance with
4 Sections 4290 and 4291 that eliminates the vertical continuity of
5 vegetative fuels and the horizontal continuity of tree crowns for
6 the purpose of reducing flammable materials and maintaining a
7 fuel break for a distance of not more than 150 feet on each side
8 from an approved and legally permitted structure that complies
9 with the California Building Standards Code, when that cutting or
10 removal is conducted in compliance with this subdivision. For
11 purposes of this subdivision, an “approved and legally permitted
12 structure” includes only structures that are designed for human
13 occupancy and garages, barns, stables, and structures used to
14 enclose fuel tanks.

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

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

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

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

35 (ii) The costs incurred by the department, city, or county, as the
36 case may be, to abate the nuisance upon a parcel of land subject
37 to the timber operations, including, but not limited to, investigation,
38 boundary determination, measurement, and other related costs,
39 may be recovered by special assessment and lien against the parcel
40 of land by the department, city, or county. The assessment may

1 be collected at the same time and in the same manner as ordinary
2 ad valorem taxes, and shall be subject to the same penalties and
3 the same procedure and sale in case of delinquency as is provided
4 for ad valorem taxes.

5 (4) All timber operations conducted pursuant to this subdivision
6 shall conform to applicable city or county general plans, city or
7 county implementing ordinances, and city or county zoning
8 ordinances. This paragraph does not authorize the cutting, removal,
9 or sale of timber or other solid wood forest products within an area
10 where timber harvesting is prohibited or otherwise restricted
11 pursuant to the rules or regulations adopted by the board.

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

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

23 (6) (A) *Notwithstanding paragraph (1), the board may exempt*
24 *from this chapter, or portions of this chapter, a person engaged*
25 *in forest management whose activities are limited to the cutting*
26 *or removal of trees in compliance with Sections 4290 and 4291*
27 *that eliminates the vertical continuity of vegetative fuels and the*
28 *horizontal continuity of tree crowns for the purpose of reducing*
29 *flammable materials and maintaining a fuel break for a distance*
30 *of not more than 300 feet on each side from an approved and*
31 *legally permitted habitable structure, when that cutting or removal*
32 *is conducted in compliance with this subdivision and the following*
33 *conditions are met:*

34 (i) *The notice of exemption is prepared, signed, and submitted*
35 *by a registered professional forester to the department.*

36 (ii) *For the areas between 150 and 300 feet from the habitable*
37 *structure, the residual stocking standards are consistent with*
38 *paragraph (5) of subdivision (i) of Section 1038 of Title 14 of the*
39 *California Code of Regulations unless the registered professional*
40 *forester certifies that those residual stocking standards will not*

1 *eliminate the vertical continuity of vegetative fuels and the*
2 *horizontal continuity of tree crowns for the purpose of reducing*
3 *flammable materials and maintaining a fuel break, in which case*
4 *the residual stocking standards shall be consistent with paragraph*
5 *(2) of subdivision (b) of Section 912.7 of Title 14 of the California*
6 *Code of Regulations.*

7 (B) *For purposes of this paragraph, “habitable structure”*
8 *means a building that contains one or more dwelling units or that*
9 *can be occupied for residential use. Buildings occupied for*
10 *residential use include single family homes, multidwelling*
11 *structures, mobile and manufactured homes, and condominiums.*
12 *For purposes of this paragraph “habitable structure” does not*
13 *include commercial, industrial, or incidental buildings such as*
14 *detached garages, barns, outdoor sanitation facilities, and sheds.*

15 (j) (1) The harvesting of trees, limited to those trees that
16 eliminate the vertical continuity of vegetative fuels and the
17 horizontal continuity of tree crowns, for the purpose of reducing
18 the rate of fire spread, duration and intensity, fuel ignitability, or
19 ignition of tree crowns.

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

24 (3) Except as provided in paragraph (11), the notice of
25 exemption, which shall be known as the Forest Fire Prevention
26 Exemption, may be authorized only if all of the conditions specified
27 in paragraphs (4) to (10), inclusive, are met.

28 (4) A registered professional forester shall prepare the notice
29 of exemption and submit it to the director, and include a map of
30 the area of timber operations that complies with the requirements
31 of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision
32 (x) of Section 1034 of Title 14 of the California Code of
33 Regulations.

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

38 (B) The level of residual stocking shall be consistent with
39 maximum sustained production of high-quality timber products.
40 The residual stand shall consist primarily of healthy and vigorous

1 dominant and codominant trees from the preharvest stand. Stocking
2 shall not be reduced below the standards required by any of the
3 following provisions that apply to the exemption at issue:

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

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

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

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

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

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

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

38 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
39 of Section 929.1 of Title 14 of the California Code of Regulations,
40 and include site records if required pursuant to subdivision (g) of

1 that section or pursuant to Section 929.5 of Title 14 of the
2 California Code of Regulations.

3 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
4 of Section 949.1 of Title 14 of the California Code of Regulations,
5 and include site records if required pursuant to subdivision (g) of
6 that section or pursuant to Section 949.5 of Title 14 of the
7 California Code of Regulations.

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

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

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

34 (9) (A) This subparagraph applies to areas within 500 feet of
35 a legally permitted structure and in areas prioritized as a shaded
36 fuel break in a community wildfire protection plan approved by a
37 public fire agency. The board shall adopt regulations for the
38 treatment of surface and ladder fuels in the harvest area, including
39 logging slash and debris, low brush, small trees, and deadwood,
40 that could promote the spread of wildfire. The regulations adopted

1 by the board shall be consistent with the standards in the board’s
2 “General Guidelines for Creating Defensible Space” described in
3 Section 1299.03 of Title 14 of the California Code of Regulations.
4 Postharvest standards shall include vertical spacing between fuels,
5 horizontal spacing between fuels, maximum depth of dead ground
6 surface fuels, and treatment of standing dead fuels, as follows:

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

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

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

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

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

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

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

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

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

1 (10) Timber operations shall comply with the requirements of
2 paragraphs (1) to (10), inclusive, of subdivision (b) of Section
3 1038 of Title 14 of the California Code of Regulations. Timber
4 operations in the Lake Tahoe region shall comply instead with the
5 requirements of paragraphs (1) to (16), inclusive, of subdivision
6 (f) of Section 1038 of Title 14 of the California Code of
7 Regulations.

8 (11) A notice of exemption, which shall be known as the Forest
9 Fire Prevention Pilot Project Exemption, may be authorized if all
10 of the following conditions are met:

11 (A) The conditions specified in paragraphs (2), (4), (6), (7), and
12 (10) are met.

13 (B) Only trees less than 24 inches in stump diameter, measured
14 at eight inches above ground level, may be removed. A fuel
15 reduction effort shall not violate the canopy closure regulations
16 adopted by the board on June 10, 2004, and as those regulations
17 may be amended.

18 (C) (i) The registered professional forester who submits the
19 notice of exemption shall include a description of the preharvest
20 stand structure and a statement of the postharvest stand stocking
21 levels.

22 (ii) The level of residual stocking shall be consistent with
23 maximum sustained production of high-quality timber products.
24 The residual stand shall consist primarily of healthy and vigorous
25 dominant and codominant trees from the preharvest stand. Where
26 present prior to operations, the overstory canopy closure for trees
27 greater than 12 inches in diameter at breast height shall not be
28 reduced below 50 percent. Stocking shall be met with the largest
29 trees available prior to harvest and shall not be reduced below the
30 standards required by any of the following provisions that apply
31 to the exemption at issue:

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

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

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

1 (iii) If the preharvest dominant and codominant crown canopy
2 is occupied by trees less than 14 inches in diameter at breast height,
3 a minimum of 100 trees over four inches in diameter at breast
4 height shall be retained per acre for Site I, II, and III lands, and a
5 minimum of 75 trees over four inches in diameter at breast height
6 shall be retained per acre for Site IV and V lands. The retained
7 trees shall be the largest trees available prior to harvest.

8 (D) The activities conducted pursuant to this paragraph occur
9 in the Sierra Nevada Region as defined in subdivision (f) of Section
10 33302, in Modoc, Siskiyou, or Trinity Counties, or in any
11 combination of these areas.

12 (E) All activities conducted pursuant to this paragraph occur
13 within the most recent version of the department's Fire Hazard
14 Severity Zone Map in the moderate, high, and very high fire threat
15 zones.

16 (F) The department shall maintain records regarding the use of
17 the exemption granted in this paragraph in order to evaluate the
18 impact of the exemption on fuel reduction and natural resources
19 in areas where the exemption has been used.

20 (G) This paragraph shall become inoperative three years after
21 the effective date of regulations adopted by the board implementing
22 this paragraph.

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

27 ~~SECTION 1. Section 4584 of the Public Resources Code is~~
28 ~~amended to read:~~

29 ~~4584. Upon determining that the exemption is consistent with~~
30 ~~the purposes of this chapter, the board may exempt from this~~
31 ~~chapter, or portions of this chapter, a person engaged in forest~~
32 ~~management whose activities are limited to any of the following:~~

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

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

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

40 ~~(d) Site preparation.~~

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

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

5 ~~(g) (1) The one-time conversion of less than three acres to a~~
6 ~~nontimber use. A person, whether acting as an individual or as a~~
7 ~~member of a partnership, or as an officer or employee of a~~
8 ~~corporation or other legal entity, shall not obtain more than one~~
9 ~~exemption pursuant to this subdivision in a five-year period. If a~~
10 ~~partnership has as a member, or if a corporation or other legal~~
11 ~~entity has as an officer or employee, a person who has received~~
12 ~~this exemption within the past five years, whether as an individual~~
13 ~~or as a member of a partnership, or as an officer or employee of a~~
14 ~~corporation or other legal entity, then that partnership, corporation,~~
15 ~~or other legal entity is not eligible for this exemption. "Person,"~~
16 ~~for purposes of this subdivision, means an individual, partnership,~~
17 ~~corporation, or other legal entity.~~

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

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

23 ~~(ii) Authorize the department to inspect the sites approved in~~
24 ~~conversion applications that have been approved on or after January~~
25 ~~1, 2002, in order to determine that the conversion was completed~~
26 ~~within the two-year period described in subparagraph (B) of~~
27 ~~paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of~~
28 ~~the California Code of Regulations.~~

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

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

1 ~~(B) The application form for the exemption pursuant to~~
2 ~~paragraph (1) shall prominently advise the public that a violation~~
3 ~~of the conversion exemption, including a conversion applied for~~
4 ~~in the name of someone other than the person or entity~~
5 ~~implementing the conversion in bona fide good faith, is a violation~~
6 ~~of this chapter and penalties may accrue up to ten thousand dollars~~
7 ~~(\$10,000) for each violation pursuant to Article 8 (commencing~~
8 ~~with Section 4601).~~

9 ~~(h) Easements granted by a right-of-way construction agreement~~
10 ~~administered by the federal government if timber sales and~~
11 ~~operations within or affecting these areas are reviewed and~~
12 ~~conducted pursuant to the National Environmental Policy Act of~~
13 ~~1969 (42 U.S.C. Sec. 4321 et seq.).~~

14 ~~(i) (1) The harvesting of trees, limited to those trees that~~
15 ~~eliminate the vertical continuity of vegetative fuels and the~~
16 ~~horizontal continuity of tree crowns, for the purpose of reducing~~
17 ~~the rate of fire spread, duration and intensity, fuel ignitability, or~~
18 ~~ignition of tree crowns.~~

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

23 ~~(3) Except as provided in paragraph (11), the notice of~~
24 ~~exemption, which shall be known as the Forest Fire Prevention~~
25 ~~Exemption, may be authorized only if all of the conditions specified~~
26 ~~in paragraphs (4) to (10), inclusive, are met.~~

27 ~~(4) A registered professional forester shall prepare the notice~~
28 ~~of exemption and submit it to the director, and include a map of~~
29 ~~the area of timber operations that complies with the requirements~~
30 ~~of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision~~
31 ~~(x) of Section 1034 of Title 14 of the California Code of~~
32 ~~Regulations.~~

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

37 ~~(B) The level of residual stocking shall be consistent with~~
38 ~~maximum sustained production of high-quality timber products.~~
39 ~~The residual stand shall consist primarily of healthy and vigorous~~
40 ~~dominant and codominant trees from the preharvest stand. Stocking~~

1 shall not be reduced below the standards required by any of the
2 following provisions that apply to the exemption at issue:

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

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

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

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

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

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

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

37 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
38 of Section 929.1 of Title 14 of the California Code of Regulations,
39 and include site records if required pursuant to subdivision (g) of

1 ~~that section or pursuant to Section 929.5 of Title 14 of the~~
2 ~~California Code of Regulations.~~

3 ~~(ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (e)~~
4 ~~of Section 949.1 of Title 14 of the California Code of Regulations,~~
5 ~~and include site records if required pursuant to subdivision (g) of~~
6 ~~that section or pursuant to Section 949.5 of Title 14 of the~~
7 ~~California Code of Regulations.~~

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

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

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

34 ~~(9) (A) This subparagraph applies to areas within 500 feet of~~
35 ~~a legally permitted structure and in areas prioritized as a shaded~~
36 ~~fuel break in a community wildfire protection plan approved by a~~
37 ~~public fire agency. The board shall adopt regulations for the~~
38 ~~treatment of surface and ladder fuels in the harvest area, including~~
39 ~~logging slash and debris, low brush, small trees, and deadwood,~~
40 ~~that could promote the spread of wildfire. The regulations adopted~~

1 by the board shall be consistent with the standards in the board's
2 "General Guidelines for Creating Defensible Space" described in
3 Section 1299.03 of Title 14 of the California Code of Regulations.
4 Postharvest standards shall include vertical spacing between fuels,
5 horizontal spacing between fuels, maximum depth of dead ground
6 surface fuels, and treatment of standing dead fuels, as follows:

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

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

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

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

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

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

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

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

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

1 ~~(10) Timber operations shall comply with the requirements of~~
2 ~~paragraphs (1) to (10), inclusive, of subdivision (b) of Section~~
3 ~~1038 of Title 14 of the California Code of Regulations. Timber~~
4 ~~operations in the Lake Tahoe region shall comply instead with the~~
5 ~~requirements of paragraphs (1) to (16), inclusive, of subdivision~~
6 ~~(f) of Section 1038 of Title 14 of the California Code of~~
7 ~~Regulations.~~

8 ~~(11) A notice of exemption, which shall be known as the Forest~~
9 ~~Fire Prevention Pilot Project Exemption, may be authorized if all~~
10 ~~of the following conditions are met:~~

11 ~~(A) The conditions specified in paragraphs (2), (4), (6), (7), and~~
12 ~~(10) are met.~~

13 ~~(B) Only trees less than 24 inches in stump diameter, measured~~
14 ~~at eight inches above ground level, may be removed. A fuel~~
15 ~~reduction effort shall not violate the canopy closure regulations~~
16 ~~adopted by the board on June 10, 2004, and as those regulations~~
17 ~~may be amended.~~

18 ~~(C) (i) The registered professional forester who submits the~~
19 ~~notice of exemption shall include a description of the preharvest~~
20 ~~stand structure and a statement of the postharvest stand stocking~~
21 ~~levels.~~

22 ~~(ii) The level of residual stocking shall be consistent with~~
23 ~~maximum sustained production of high-quality timber products.~~
24 ~~The residual stand shall consist primarily of healthy and vigorous~~
25 ~~dominant and codominant trees from the preharvest stand. Where~~
26 ~~present prior to operations, the overstory canopy closure for trees~~
27 ~~greater than 12 inches in diameter at breast height shall not be~~
28 ~~reduced below 50 percent. Stocking shall be met with the largest~~
29 ~~trees available prior to harvest and shall not be reduced below the~~
30 ~~standards required by any of the following provisions that apply~~
31 ~~to the exemption at issue:~~

32 ~~(I) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph~~
33 ~~(1) of subdivision (a) of Section 913.3 of Title 14 of the California~~
34 ~~Code of Regulations.~~

35 ~~(II) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph~~
36 ~~(1) of subdivision (a) of Section 933.3 of Title 14 of the California~~
37 ~~Code of Regulations.~~

38 ~~(III) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph~~
39 ~~(1) of subdivision (a) of Section 953.3 of Title 14 of the California~~
40 ~~Code of Regulations.~~

1 ~~(iii) If the preharvest dominant and codominant crown canopy~~
 2 ~~is occupied by trees less than 14 inches in diameter at breast height,~~
 3 ~~a minimum of 100 trees over four inches in diameter at breast~~
 4 ~~height shall be retained per acre for Site I, II, and III lands, and a~~
 5 ~~minimum of 75 trees over four inches in diameter at breast height~~
 6 ~~shall be retained per acre for Site IV and V lands. The retained~~
 7 ~~trees shall be the largest trees available prior to harvest.~~

8 ~~(D) The activities conducted pursuant to this paragraph occur~~
 9 ~~in the Sierra Nevada Region as defined in subdivision (f) of Section~~
 10 ~~33302, in Modoc, Siskiyou, or Trinity Counties, or in any~~
 11 ~~combination of these areas.~~

12 ~~(E) All activities conducted pursuant to this paragraph occur~~
 13 ~~within the most recent version of the department’s Fire Hazard~~
 14 ~~Severity Zone Map in the moderate, high, and very high fire threat~~
 15 ~~zones.~~

16 ~~(F) The department shall maintain records regarding the use of~~
 17 ~~the exemption granted in this paragraph in order to evaluate the~~
 18 ~~impact of the exemption on fuel reduction and natural resources~~
 19 ~~in areas where the exemption has been used.~~

20 ~~(G) This paragraph shall become inoperative three years after~~
 21 ~~the effective date of regulations adopted by the board implementing~~
 22 ~~this paragraph.~~

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

27 ~~SEC. 2. Section 4584.1 is added to the Public Resources Code,~~
 28 ~~to read:~~

29 ~~4584.1. (a) This chapter shall not apply to the cutting or~~
 30 ~~removal of trees in compliance with Sections 4290 and 4291 that~~
 31 ~~eliminates the vertical continuity of vegetative fuels and the~~
 32 ~~horizontal continuity of tree crowns for the purpose of reducing~~
 33 ~~flammable materials and maintaining a fuel break for a distance~~
 34 ~~of not more than 300 feet on each side from an approved and~~
 35 ~~legally permitted structure that complies with the California~~
 36 ~~Building Standards Code, when that cutting or removal is~~
 37 ~~conducted in compliance with this section. For purposes of this~~
 38 ~~section, an “approved and legally permitted structure” includes~~
 39 ~~only structures that are designed for human occupancy and garages,~~
 40 ~~barns, stables, and structures used to enclose fuel tanks.~~

1 ~~(b) (1) The cutting or removal of trees pursuant to this section~~
2 ~~is limited to cutting or removal that will result in a reduction in~~
3 ~~the rate of fire spread, fire duration and intensity, fuel ignitability,~~
4 ~~or ignition of the tree crowns and shall be in accordance with any~~
5 ~~regulations adopted by the board pursuant to this section.~~

6 ~~(2) Trees shall not be cut or removed pursuant to this section~~
7 ~~by the clearcutting regeneration method, by the seed tree removal~~
8 ~~step of the seed tree regeneration method, or by the shelterwood~~
9 ~~removal step of the shelterwood regeneration method.~~

10 ~~(c) (1) Surface fuels, including logging slash and debris, low~~
11 ~~brush, and deadwood, that could promote the spread of wildfire~~
12 ~~shall be chipped, burned, or otherwise removed from all areas of~~
13 ~~timber operations within 45 days from the date of commencement~~
14 ~~of timber operations pursuant to this section.~~

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

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

30 ~~(d) All timber operations conducted pursuant to this section~~
31 ~~shall conform to applicable city or county general plans, city or~~
32 ~~county implementing ordinances, and city or county zoning~~
33 ~~ordinances. This subdivision does not authorize the cutting or~~
34 ~~removal of timber or other solid wood forest products within an~~
35 ~~area where timber harvesting is prohibited or otherwise restricted~~
36 ~~pursuant to the rules or regulations adopted by the board.~~

37 ~~(e) The timber cut and removed pursuant to this section may be~~
38 ~~sold by the landowner.~~

39 ~~(f) (1) The board shall adopt regulations, initially as emergency~~
40 ~~regulations in accordance with paragraph (2), that the board~~

1 considers necessary to implement and to obtain compliance with
2 this section:

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

10 SEC. 3. ~~Section 4584.5 of the Public Resources Code is~~
11 ~~amended to read:~~

12 ~~4584.5. Nothing in Section 4584 or 4584.1 shall exempt the~~
13 ~~owner of any timber harvested from registering with the State~~
14 ~~Board of Equalization or from the payment of any applicable timber~~
15 ~~yield taxes imposed pursuant to Section 38115 of the Revenue and~~
16 ~~Taxation Code.~~