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**SB-901 Wildfires.** (2017-2018)

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Date Published: 09/21/2018 09:00 PM

**Senate Bill No. 901**

**CHAPTER 626**

An act to add Section 815.11 to the Civil Code, to add Section 65040.21 to the Government Code, to add Section 38535 to the Health and Safety Code, to amend Sections 4213.05, 4290, 4527, 4584, 4589, 4593.2, 4597, 4597.1, 4597.2, 4597.6, and 4799.05 of, to add Sections 4123.5, 4124.7, 4290.1, 4584.1, and 4584.2 to, to add Article 10 (commencing with Section 4205) to Chapter 1 of Part 2 of Division 4 of, to add and repeal Section 4556 of, and to repeal Section 4597.20 of, the Public Resources Code, and to amend Sections 399.20.3, 854, 959, 1731, 2107, 8386, and 8387 of, to add Sections 451.1, 451.2, 748.1, 764, 854.2, 8386.1, 8386.2, 8386.5, and 8388 to, to add Article 5.8 (commencing with Section 850) to Chapter 4 of Part 1 of Division 1 of, and to repeal and add Section 706 of, the Public Utilities Code, relating to wildfires.

[ Approved by Governor September 21, 2018. Filed with Secretary of State September 21, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 901, Dodd. Wildfires.

(1) Existing law, the California Emergency Services Act, among other things, authorizes the Governor, with the advice of the Office of Emergency Services, to divide the state into mutual aid regions for the more effective application, administration, and coordination of mutual aid and other emergency-related activities. Existing law authorizes the Office of Emergency Services to coordinate response and recovery operations in the mutual aid regions. The Budget Act of 2018 appropriated \$99,376,000 to the Office of Emergency Services for purposes of local assistance. Of those funds, \$25,000,000 was made available, pursuant to a schedule, for equipment and technology that improves the mutual aid system. Existing law authorizes the Department of Forestry and Fire Protection (CalFire) to administer various programs, including grant programs, relating to forest health and wildfire protection.

This bill would revise the Budget Act of 2018 to provide that the \$25,000,000 described above shall be applied to support activities directly related to regional response and readiness. The bill would provide that these activities include predeployment of Office of Emergency Services fire and rescue and local government resources that are part of the California Fire and Rescue Mutual Aid System or additional resources upon the authority and approval of the Office of Emergency Services to meet the requirements for state resources called up for predisaster and disaster response.

This bill would state that 2 separate appropriations, one for \$165,000,000 and one for \$35,000,000, shall be made in each Budget Act through the 2023–24 fiscal year from the Greenhouse Gas Reduction Fund to CalFire, each for separately identified purposes relating to forest health, fire prevention, and fuel reduction.

(2) Existing law establishes conservation easements as interests in real property that are voluntarily created and freely transferable and that are created to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space

condition.

This bill would require, for any conservation easement purchased with state funds on or after January 1, 2019, wherein land subject to the easement includes some forest lands, or consists completely of forest lands, to the extent not in conflict with federal law, the terms of any applicable bond, or the requirements of any other funding source, the landowner shall agree, as part of the easement, to maintain and improve forest health through promotion of a more natural tree density, species composition, structure, and habitat function, to make improvements that increase the land's ability to provide resilient, long-term carbon sequestration and net carbon stores as well as watershed functions, to provide for the retention of larger trees and a natural range of age classes, and to ensure the growth and retention of such larger trees over time.

(3) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board (state air board) as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state air board is required to adopt a statewide greenhouse gas emissions limit, as specified, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state air board to include in its regulation of those emissions the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state air board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature. Existing law requires the Department of Finance, in consultation with the state air board and any other relevant state agency, to develop and update, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund.

This bill would require the state air board, in consultation with CalFire, to develop a standardized approach to quantifying the direct carbon emissions and decay from fuel reduction activities for purposes of meeting the accounting requirements for Greenhouse Gas Reduction Fund expenditures, a historic baseline of greenhouse gas emissions from California's natural fire regime reflecting conditions before modern fire suppression, and a report that assesses greenhouse gas emissions associated with wildfire and forest management activities, as provided.

(4) Existing law requires CalFire to provide fire prevention and firefighting implements and apparatus, and organize fire crews and other services, related to the prevention and control of forest fires.

This bill would require CalFire to create a Wildfire Resilience Program for purposes of assisting nonindustrial timberland owners with wildfire resilience efforts by providing technical assistance on prescribed topics, including helping applicants navigate the permitting process. The bill would require CalFire to make specified information available to nonindustrial timberland owners.

This bill would require, contingent on the enactment of AB 1956 of the 2017–18 Regular Session, the department to prioritize local assistance grant funding applications from local agencies based on the "Fire Risk Reduction Community" list, as provided.

(5) Existing law required the State Board of Forestry and Fire Protection (state forestry board), on or before September 1, 2011, to adopt emergency regulations to establish a fire prevention fee in an amount not to exceed \$150 to be charged on each habitable structure, as defined, on a parcel that is within a state responsibility area, as defined, and authorized the board to annually adjust the fire prevention fees using prescribed methods.

Existing law requires that the fire prevention fees collected, except as provided, be deposited into the State Responsibility Area Fire Prevention Fund and be made available to the state forestry board and CalFire for certain specified fire prevention activities that benefit the owners of habitable structures in state responsibility areas who are required to pay the fee.

Existing law, commencing with the 2017–18 fiscal year, suspended the fire prevention fee and required any moneys held in reserve in the fund to be appropriated by the Legislature in a manner consistent with the purposes of the fund. Existing law expresses the intent of the Legislature that moneys derived from the auction or sale of allowances pursuant to a greenhouse gas emissions reduction program market-based compliance mechanism shall be used to replace the moneys that would have otherwise been collected to continue fire prevention activities.

This bill would provide that the amount appropriated in the annual Budget Act pursuant to the statement of legislative intent referenced above not be included in determining the amount of annual proceeds of the Greenhouse Gas Reduction Fund for purposes of specified calculations.

(6) The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations, defined to mean the cutting or removal, or both, of timber or other solid wood forest products from timberlands for commercial purposes, unless a timber harvesting plan prepared by a registered professional forester has been submitted for the operations to CalFire. The act provides an exception from its provisions for timber operations that involve the removal of trees less than 16 inches in diameter at breast height from a firebreak or fuelbreak if the removal meets specified requirements, including the requirement that the removed trees will not be processed into logs or lumber.

This bill would provide an exception to the requirement that the removed trees not be processed into logs or lumber for a fuelbreak conducted by a public agency or a nonprofit organization, as provided.

The act authorizes the state forestry board 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. Existing law requires surface fuels that promote the spread of wildfire to be removed from all areas of the timber operations within 45 days from the start of timber operations and provides that any not so removed after that time may be determined to be a nuisance, as provided.

This bill would instead provide that all fuel treatments related to the cutting or removal of trees in compliance with existing law relating to defensible space that do not comply with state forestry board rules and regulations may be determined to be a nuisance, as provided.

The bill would establish, until a specified date, the Small Timberland Owner Exemption, which would exempt from the act the cutting or removal of trees on property of no more than 100 acres within a single planning watershed, depending on location of the property, 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, subject to specified conditions.

The bill would require the state forestry board to comply with specified standards when adopting those regulations related to the Small Timberland Owner Exemptions and other exemptions, as provided, as determined appropriate and necessary by the state forestry board.

The act authorizes, until January 1, 2021, the Forest Fire Prevention Pilot Project Exemption if specified conditions are met, including that only trees less than 26 inches in stump diameter, measured at 8 inches above ground level, be removed, no new road construction or reconstruction occur, and the activities be conducted in specified counties.

This bill would revise and recast the exemption to, until a specified date, allow the construction or reconstruction of temporary roads on slopes of 30% or less, if certain conditions are met, including that temporary roads or landings are not located on unstable areas, are single-lane in width, and are not located across a connected headwall swale, among other things. The bill would require the state forestry board to comply with specified standards when adopting those regulations.

The bill would make other related changes to the exemptions.

Existing law requires the department and the state forestry board, until January 1, 2019, to review and submit a report to the Legislature on the trends in the use of, compliance with, and effectiveness of, timber harvest exemptions and emergency notice provisions, as provided. Existing law requires the report to include an analysis of any barriers for small forest owners presented by the exemptions.

This bill would delete the requirement that the report include the above analysis. The bill would require the department and the state forestry board, until a specified date, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, to annually submit a report to the Legislature that also includes information on the number and type of violations and enforcement actions taken on each notice of exemption and emergency notice, among other things.

The act requires the state forestry board to adopt district forest practice rules and regulations, as provided, to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources.

This bill would require the Forest Management Task Force to report to the Legislature on or before July 1, 2020, on opportunities to streamline the act and associated rules and regulations to expedite forest health projects while preserving the resource protection functions of the act.

Existing law requires the state forestry board to adopt regulations implementing minimum fire safety standards related to defensible space that are applicable to state responsibility area lands and lands under the authority of CalFire, and specifies that these regulations apply to the perimeters and access to all residential, commercial, and industrial building construction within state responsibility areas approved after January 1, 1991.

This bill would also require the state forestry board to adopt regulations implementing minimum fire safety standards that are applicable to lands classified and designated as very high fire hazard severity zones and would require the regulations to apply to the perimeters and access to all residential, commercial, and industrial building construction within lands classified and designated as very high fire hazard severity zones, as defined, after July 1, 2021. The bill would further require the state forestry board to, on and after July 1, 2021, periodically update regulations for fuel breaks and greenbelts near communities to provide greater fire safety for the perimeters to all residential, commercial, and industrial building construction within state responsibility areas and lands classified and designated as very high fire hazard severity zones after that date. The bill would require the state

forestry board, on or before July 1, 2022, to develop criteria and maintain a "Fire Risk Reduction Community" list of local agencies located in a state responsibility area or a very high fire hazard severity zone that meet best practices for local fire planning.

The act authorizes a person who intends to become a working forest landowner or a nonindustrial tree farmer, as defined, to file a working forest management plan or a nonindustrial timber management plan, as the case may be, with the department, with the long-term objective of an uneven aged timber stand and sustained yield through the implementation of the plan. Existing law defines "nonindustrial timber management plan" to mean a management plan for nonindustrial timberlands, as provided. The bill would remove from working forest management plans a required description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations.

This bill would provide that a nonindustrial timber management plan may include multiple tree farmers, but shall not cover more than 2,500 acres. The bill would require that working forest landowners comply with all applicable regulatory requirements of the state water board and the appropriate regional water quality control board. The bill would revise the definition of a "working forest landowner" to reduce the acreage that may be the subject of an approved working forest management plan, from less than 15,000 acres, to less than 10,000 acres, would authorize a plan to include multiple working forest landowners, and require that a plan be contained within a single hydrologic area, as specified.

This bill would authorize the state forestry board to adopt emergency regulations for these purposes, as specified.

(7) Existing law authorizes the Director of Forestry and Fire Protection to provide grants to entities, including, but not limited to, private or nongovernmental entities, Native American tribes, or local, state, and federal public agencies, for the implementation and administration of projects and programs to improve forest health and reduce greenhouse gas emissions. Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would provide that, until January 1, 2023, under specified conditions, CEQA would not apply to prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under the federal National Environmental Policy Act of 1969. The bill would also provide that CEQA would not apply to the issuance of a permit or other project approval by a state or local agency for these fire, thinning, or fuel reduction projects. Because a lead agency would be required to determine if this exemption from CEQA applies, this bill would impose a state-mandated local program. The bill would require CalFire, commencing December 31, 2019, and annually thereafter, to report to the relevant policy committees of the Legislature the number of times these provisions were used. The bill would provide that these provisions shall remain operative only if the Secretary of the Natural Resources Agency certifies on or before January 1 of each year that the National Environmental Policy Act of 1969 or other federal laws that affect the management of federal forest lands in California have not being substantially amended on or after August 31, 2018.

(8) Existing law creates the Office of Planning and Research in the Governor's office to provide the Governor and his or her cabinet with long-range land use planning and research and to serve as the comprehensive state planning agency.

This bill would establish within the Office of Planning and Research the Commission on Catastrophic Wildfire Cost and Recovery. The bill would require the commission to consist of 5 appointed members with specified expertise, as provided. The bill would require the commission to hold at least 4 public meetings throughout the state for purposes of accepting public and expert testimony on, and for evaluating and making recommendations on, specified matters relating to the costs of damage associated with catastrophic wildfires, as provided. The bill would require the commission, on or before July 1, 2019, and in consultation with the Public Utilities Commission (PUC) and the Insurance Commissioner, to prepare a report containing its assessment of the issues surrounding catastrophic wildfire costs and the reduction of damage, and making recommendations for changes to law that would ensure equitable distribution of costs among affected parties.

(9) Under existing law, the PUC has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law authorizes the PUC to establish rules for all public utilities, subject to control by the Legislature. Under existing law, any public utility that violates or fails to comply with any provision of the California Constitution or the Public Utilities Act, or that fails or neglects to comply with any order, decision, decree, rule, direction, demand, or requirement of the PUC, is generally subject to a penalty of not less than \$500, nor more than \$50,000 for each offense. Existing law authorizes the PUC to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. Existing law prohibits a gas corporation from recovering any fine or penalty in any rate approved by the PUC.

This bill would increase that maximum penalty to \$100,000. The bill would prohibit an electrical corporation from recovering a fine or penalty through a rate approved by the PUC, and would make related nonsubstantive changes. This bill would authorize the

PUC, in an application by an electrical corporation to recover costs and expenses arising from a catastrophic wildfire, to allow cost recovery if the costs and expenses are just and reasonable, based on the PUC's consideration of the conduct of the electrical corporation and relevant information submitted into the PUC's record, including, but not limited to, information regarding specified factors.

(10) Existing law prohibits an electrical corporation or gas corporation, for a period of 5 years following a safety violation causing more than \$5,000,000 in ratepayer liability, as specified, from recovering from ratepayers expenses for annual compensation of an officer in excess of \$1,000,000 without PUC approval. Existing law requires the electrical corporation or gas corporation seeking to pay, or seeking recovery of, annual officer compensation in excess of \$1,000,000 during that 5-year period to file an application with the PUC containing specified information. Existing law requires the PUC, following a duly noticed public hearing in a proceeding to consider the application, to issue a written decision on the application.

This bill would repeal the above provisions relating to excess annual compensation of utility officers. The bill would prohibit an electrical corporation or gas corporation from recovering from ratepayers any annual salary, bonus, benefits, or other consideration of any value, paid to an officer of the electrical corporation or gas corporation, and would require that compensation to instead be funded solely by shareholders of the electrical corporation or gas corporation.

(11) Existing law authorizes the PUC, after a hearing, to require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. The act requires electrical corporations to annually prepare and submit a wildfire mitigation plan to the PUC for review.

This bill would require each plan to include additional elements, and would require an independent evaluator to review and assess the electrical corporation's compliance with its plan. The bill would authorize the electrical corporation to recover in rates the costs of the independent evaluator. The bill would require the PUC to approve the plan and to consider the independent evaluator's findings, as specified. The bill would require the PUC to assess penalties on an electrical corporation that fails to substantially comply with its plan.

This bill would require an independent 3rd-party evaluator to conduct a safety culture assessment of each electrical corporation, the costs of which would not be recoverable in rates by the electrical corporation.

This bill would require that an electrical corporation that has a contract for private fire safety and prevention, mitigation, or maintenance services, only use those services for the direct defense of utility infrastructure. The bill would require an electrical corporation to make maximum effort to reduce or eliminate the use of contract private fire safety and prevention, mitigation, and maintenance personnel in favor of employing highly skilled and apprenticed personnel to perform fire safety and prevention, mitigation, or maintenance services in direct defense of utility infrastructure in collaboration with public agency fire departments having jurisdiction.

(12) Under existing law, local publicly owned electric utilities and electrical cooperatives are under the direction of their governing boards. Existing law requires each local publicly owned electric utility and electrical cooperative to construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. Existing law requires the governing board of a local publicly owned electric utility or electrical cooperative to determine whether any portion of the geographical area where the utility's overhead electrical lines and equipment are located has a significant risk of catastrophic wildfire resulting from those electrical lines and equipment and, if so, requires the utility, at an interval determined by its board, to present to its board for approval those wildfire mitigation measures the utility intends to undertake to minimize the risk of its overhead electrical lines and equipment causing a catastrophic wildfire. Existing law authorizes a governing board of a local publicly owned electric utility or electrical cooperative to determine that a fire prevention plan it prepared and submitted to, and which was approved by, a federal agency as a license condition meets these requirements for those areas covered by the plan.

This bill would require those utilities to prepare wildfire mitigation measures if the utilities' overhead electrical lines and equipment are located in an area that has a significant risk of wildfire resulting from those electrical lines and equipment. The bill would require the wildfire mitigation measures to incorporate specified information and procedures. The bill would require the local publicly owned electric utility or electrical cooperative, before January 1, 2020, and annually thereafter, to prepare a wildfire mitigation plan, except where its governing board determined that its federally approved fire prevention plan met the otherwise applicable requirements. The bill would require specified information and elements to be included in the plan. The bill would require the local publicly owned electric utility or electrical cooperative to present each plan in an appropriately noticed public meeting, to accept comments on the plan from the public, other local and state agencies, and interested parties, and to verify that the plan complies with all applicable rules, regulations, and standards, as appropriate. The bill would require the local publicly owned electric utility or electrical cooperative to contract with a qualified independent evaluator to review and assess the comprehensiveness of its plan.

By placing additional duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(13) This bill would require the PUC and CalFire to enter into a memorandum of understanding to cooperatively develop consistent approaches and share data related to fire prevention, safety, vegetation management, and energy distribution systems and to share results from various fire prevention activities, including relevant inspections and fire ignition data.

(14) The existing restructuring of the electrical services industry provides for the issuance of rate reduction bonds by the California Infrastructure and Economic Development Bank for the recovery of transition costs, as defined, by electrical corporations. Existing law authorizes the PUC to issue financing orders, to support the issuance of recovery bonds, as defined, by the recovery corporation, as defined, secured by a dedicated rate component, to finance the unamortized balance of the regulatory asset awarded Pacific Gas and Electric Company in PUC Decision 03-12-035.

This bill would, under specific circumstances, authorize the PUC, upon application by an electrical corporation, to issue financing orders to support the issuance of recovery bonds to finance costs, in excess of insurance proceeds, incurred, or that are expected to be incurred, by an electrical corporation, excluding fines and penalties, related to wildfires, as provided.

(15) Existing law prohibits a person or corporation from merging, acquiring, or controlling either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the PUC.

This bill would require, in the context of a change of control of an electrical corporation or gas corporation, a successor employer to retain all covered employees, as defined, for at least 180 days immediately following the effective date of a change of control. The bill would prohibit the successor employer from reducing the total compensation of a covered employee during that period. The bill would prohibit, for 2 years after the 180-day period, a successor employer from reducing the total number of employees who would have been covered employees for succession purposes below the total number of those employees who were protected during that 180-day period, unless approved by the PUC. The bill would prohibit the PUC from authorizing a successor employer to reduce the number of those employees unless the successor employer makes a specified showing.

This bill would establish procedures for rehearing and judicial review of any order or decision made pursuant to the above-described provisions.

(16) The California Renewables Portfolio Standard Program requires the PUC to implement annual procurement targets for the procurement of eligible renewable energy resources, as defined, for all retail sellers, which includes electrical corporations, to achieve the targets and goals of the program. The program requires electrical corporations, by December 1, 2016, to collectively procure, through financial commitments of 5 years, their proportionate share of 125 megawatts of cumulative rated generating capacity from bioenergy projects commencing operation prior to June 1, 2013, that each produces its generation using specified minimum percentages of certain types of forest feedstock. Pursuant to existing law, the PUC has adopted resolutions establishing fuel or feedstock procurement requirements for generation from bioenergy projects intended to reduce wildfire risks that are applicable to the state's 3 largest electrical corporations.

This bill would expand the fuels and feedstocks that are eligible to meet these wildfire risk reduction fuel and feedstock requirements. The bill would require that the state's 3 largest electrical corporations allow bioenergy facilities under contract to report fuel or feedstock used to meet those contracts on a monthly or annual basis and to allow a bioenergy facility to opt out of the mandated fuel or feedstock usage levels in any particular month upon providing written notice in the month of operation to the electrical corporation, as specified.

This bill would require an electrical corporation, local publicly owned electric utility, or community choice aggregator with a contract to procure electricity generated from biomass that is operative at any time in 2018, and expires or expired on or before December 31, 2023, to seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date 5 years later than the expiration date in the contract that was operative in 2018, so long as the contract extension follows the feedstock requirement. This requirement would be limited to facilities sourcing fuel material in California and would not apply to facilities located in certain air basins.

(17) Under existing law, a violation of the Public Utilities Act or an order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the certain provisions of this bill would be a part of the act and because a violation of an order or decision of the PUC implementing its requirements would be a crime, the bill would impose a state-mandated local program.

(18) This bill would incorporate additional changes to Section 4799.05 of the Public Resources Code proposed by SB 1079 to be operative only if this bill and SB 1079 are enacted and this bill is enacted last.

(19) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** In regards to the provisions of this measure related to forest management, the Legislature finds and declares all of the following:

(a) It is the policy of the state to encourage prudent and responsible forest resource management by increasing the pace and scale of fuel reduction, thinning, and the use of prescribed fire as directed by Governor Brown's Executive Order B-52-18. California's small timberland owners find it difficult to practice sustainable forest management on their private family ownerships. Noncorporate forest landowners control approximately 3.2 million acres of the state's nearly 8 million acres of private timberlands. Of these, there are approximately 87,000 parcels of timberland that are 100 acres or less.

(b) It is the finding of the Legislature that small timberland owners who conduct forest management activities under the Small Timberland Owner Exemption, pursuant to regulations adopted by the Board of Forestry and Fire Protection, will contribute to the conservation of public trust resources through fuel hazard reduction, maintenance of wildlife habitat, protection of water resources, protection of archaeological resources, and maintenance of long-term carbon sequestration, and benefit social and economic objectives. Forest management under this exemption should employ uneven-aged management that should promote forest health and resilience.

(c) Research by the Sierra Nevada Conservancy shows that high-severity fires can increase stormwater runoff and erosion, expose the snowpack to direct sunlight, and shift melt times to earlier in the spring when water cannot be captured and stored. The conservancy found that overgrown forests result in up to 60 percent of snowfall never reaching the ground, thereby increasing the risk that the water will be lost back into the atmosphere rather than added to the snowpack. Since the snowpack is the state's largest water storage system and is expected to decline as a result of rising temperatures, it is even more important to improve forest health to maximize snowpack retention, water storage, and improve water quality.

(d) Research indicates that wildfires have grown larger and increased in intensity over the last several decades. Forest fires have increased from an average of about 60,000 acres annually between the 1950s and 1990s to 175,000 acres annually in the 2000s and over 250,000 acres annually this decade. The percentage of acres burning at high severity has increased from roughly 20 percent to almost 30 percent, with 40 percent of the 2013 Rim Fire and 50 percent of the 2014 King Fire burning at high intensity. High-intensity burn patches were historically less than 10 acres in size, sizes that facilitated habitat diversity and that could be quickly reseeded from the surrounding forests. In stark contrast, the King Fire had a single high-intensity burn patch of over 30,000 acres and the Rim Fire had a burn patch of over 50,000 acres (over 78 square miles). In contrast to historic low-intensity wildfires that play an important role in the forest ecosystem, high-intensity wildfires are far more ecologically devastating and lead to the growth of fewer fire-resistant species, which further increases fire risk.

(e) Wildfires result in significant greenhouse gas emissions. The State Air Resources Board acknowledges that wildfires are the largest source of black carbon, a short-lived climate pollutant, and wildfire emissions are orders of magnitude higher than black carbon emissions from anthropogenic sources. Furthermore, the combustion of forest material during a fire may only contribute a relatively small portion of the total emissions, since a high-intensity fire that kills vegetation may actually contribute four to five times as many emissions during post-fire decomposition.

(f) CAL-FIRE's recent California Forest Carbon Plan notes that carbon emissions from wildfires are anticipated to increase if there is no change in current forest management practices. The 2013 Rim Fire, which burned 257,000 acres, generated roughly 15 million metric tons of greenhouse gas emissions, as much pollution as 2.3 million vehicles generate in a given year. Proposed amendments to the Low-Carbon Fuel Standard to reduce carbon intensity of transportation fuels 18 percent by 2030 are anticipated to reduce greenhouse gas emissions by about 25 million tons annually, which is approximately the amount of emissions generated by wildfires in a given year. Unless the state significantly improves forest management and reduces the risk and intensity of wildfires, wildfire emissions will continue to erode the greenhouse gas emission reductions achieved from regulatory programs.

(g) This act is intended to improve forest health and reduce the risk and intensity of wildfires, thereby protecting the state from loss of life and property damage, reducing greenhouse gas emissions, enhancing ecosystem function, improving wildlife habitats, increasing water supply, improving water quality, reducing the amount of money the state must spend on wildfire response and rebuilding, and increasing carbon sequestration in our forests.

**SEC. 2.** Section 815.11 is added to the Civil Code, immediately following Section 815.10, to read:

**815.11.** For any conservation easement purchased with state funds on or after January 1, 2019, wherein land subject to the easement includes some forest lands, or consists completely of forest lands, to the extent not in conflict with federal law, the

terms of any applicable bond, or the requirements of any other funding source, the landowner shall agree, as part of the easement management plan, to maintain and improve forest health through promotion of a more natural tree density, species composition, structure, and habitat function, to make improvements that increase the land's ability to provide resilient, long-term carbon sequestration and net carbon stores as well as watershed functions, to provide for the retention of larger trees and a natural range of age classes, and to ensure the growth and retention of these larger trees over time.

**SEC. 3.** Section 65040.21 is added to the Government Code, to read:

**65040.21.** Before July 1, 2020, the office shall update the guidance document entitled "Fire Hazard Planning General Plan Technical Advice Series" in consultation with the Department of Housing and Community Development, the Office of Emergency Services, the Department of Forestry and Fire Protection, and other fire and safety experts. The guidance document shall include specific land use strategies to reduce fire risk to buildings, infrastructure, and communities. The office shall update the guidance document thereafter as necessary.

**SEC. 4.** Section 38535 is added to the Health and Safety Code, to read:

**38535.** The state board, in consultation with the California Department of Forestry and Fire Protection, shall develop all of the following:

(a) A standardized system for quantifying the direct carbon emissions and decay from fuel reduction activities for purposes of meeting the accounting requirements for Greenhouse Gas Reduction Fund expenditures. This system may include standardized lookup tables by forest stand type, including for oak woodland forests, and harvest or other management prescriptions. The system shall acknowledge that certain expenditures, such as for planning, analysis, modeling, or outreach, will not have a direct greenhouse gas reduction benefit, but will facilitate necessary climate preparedness activities that will have direct greenhouse gas benefits.

(b) In consultation with academic experts, a historic baseline of greenhouse gas emissions from California's natural fire regime reflecting conditions before modern fire suppression. This shall be completed on or before December 31, 2020. The baseline may be included within the state board's natural working lands inventory.

(c) On or before December 31, 2020, and every five years thereafter, a report that assesses greenhouse gas emissions associated with wildfire and forest management activities.

**SEC. 5.** Section 4123.5 is added to the Public Resources Code, immediately following Section 4123, to read:

**4123.5.** (a) The department shall create the Wildfire Resilience Program. The purpose of the program is to assist nonindustrial timberland owners with wildfire resilience efforts by providing technical assistance on multiple topics, including, but not necessarily limited to, helping navigate the permitting process, fuels reduction, fuelbreaks, forest health, and reforestation, for purposes of reducing wildlife risks while maintaining or enhancing habitat, watershed values, and carbon sequestration. This technical assistance shall be provided by department staff and in collaboration with other entities, including, but not necessarily limited to, resource conservation districts and the University of California Cooperative Extension.

(b) The department may use any mechanisms or tools to determine priority areas, including high or very high fire threat zones as described by the Department of Forestry and Fire Protection's Fire Hazard Severity Zone map, in a Public Utilities Commission-designated Tier 2 or Tier 3 High Fire Threat District, or in the state responsibility areas where wildfire resilience activities are necessary and serve an important purpose. Where appropriate, the department and its collaborators may conduct outreach efforts to nonindustrial timberland owners in priority areas to provide information and technical assistance.

(c) To provide the technical assistance referenced in subdivision (a), the department may use its forestry assistant specialists or any other personnel classification with the knowledge to inform nonindustrial timberland owners of the options to make their timberland more resilient to wildfire and to take advantage of the other provisions of subdivision (a), with specific outreach on these topics to those nonindustrial timberland owners.

(d) The department shall assist nonindustrial timberland owners by making all of the following information available:

- (1) A list of permits needed from state entities to conduct various types of fuel removal projects.
- (2) Concise information detailing research and current best practices for wildfire resilience.
- (3) A list of the grant opportunities statewide which allow for wildfire resilience activities.
- (4) The details of grants made by the department relating to wildfire resilience activities.



(e) The department shall provide technical assistance to nonindustrial timberland owners on how to maintain the benefits of fuel reduction projects.

**SEC. 6.** Section 4124.7 is added to the Public Resources Code, to read:

**4124.7.** (a) The department shall, except for activities described in paragraph (5) of subdivision (c) of Section 4124.5, prioritize local assistance grant funding applications from local agencies based on the "Fire Risk Reduction Community" list, upon development of that list, pursuant to Section 4290.1.

(b) The prioritization required in subdivision (a) shall not affect applications from entities that are not local agencies.

(c) This section shall become operative only if Assembly Bill 1956 of the 2017–18 Regular Session is chaptered and becomes effective on or before January 1, 2019.

**SEC. 7.** Article 10 (commencing with Section 4205) is added to Chapter 1 of Part 2 of Division 4 of the Public Resources Code, to read:

**Article 10. Commission on Catastrophic Wildfire Cost and Recovery**

**4205.** (a) (1) There is hereby created within the Office of Planning and Research the Commission on Catastrophic Wildfire Cost and Recovery, to examine issues related to catastrophic wildfires associated with utility infrastructure. The commission shall consist of five members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, and one member shall be appointed by the Speaker of the Assembly.

(2) The chair of the commission shall be selected by the members of the commission.

(3) Members appointed to the commission shall have demonstrated academic, business, or governmental expertise in laws, policies, and programs applicable to insurance or public and private utilities, and to processes for the allocation of costs and the reduction of damages associated with wildfires in the state.

(b) The commission shall hold at least four public meetings throughout the state for purposes of accepting public and expert testimony on, and for evaluating and making recommendations on, the following matters:

(1) Options for the Legislature and the Governor to consider for enactment that would socialize the costs associated with catastrophic wildfires in an equitable manner.

(2) Options for the Legislature and Governor to consider for enactment that would establish a fund to assist in the payment of costs associated with catastrophic wildfires.

(c) (1) On or before July 1, 2019, the commission, in consultation with the Public Utilities Commission and the Insurance Commissioner, shall prepare a report to the Legislature, in compliance with Section 9795 of the Government Code, and to the Governor containing its assessment of the issues surrounding catastrophic wildfire costs and damages, and making recommendations for changes to law that would ensure equitable distribution of costs among affected parties.

(2) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report imposed by paragraph (1) is inoperative on July 1, 2023.

**SEC. 8.** Section 4213.05 of the Public Resources Code is amended to read:

**4213.05.** (a) Commencing with the 2017–18 fiscal year, the fire prevention fee imposed pursuant to Section 4212 shall be suspended, effective July 1, 2017. Any moneys held in reserve in the State Responsibility Area Fire Prevention Fund shall be appropriated by the Legislature in a manner consistent with subdivision (d) of Section 4214.

(b) It is the intent of the Legislature that moneys derived from the auction or sale of allowances pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code shall be used to replace the moneys that would have otherwise been collected under Section 4212 to continue fire prevention activities.

(c) The amount appropriated in the annual Budget Act pursuant to subdivision (b) shall not be included in determining the amount of annual proceeds of the fund for purposes of the calculations in Section 39719 of the Health and Safety Code.

(d) This section shall become inoperative on January 1, 2031.

**SEC. 9.** Section 4290 of the Public Resources Code is amended to read:

**4290.** (a) The board shall adopt regulations implementing minimum fire safety standards related to defensible space that are applicable to state responsibility area lands under the authority of the department, and to lands classified and designated as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code. These regulations apply to the perimeters and access to all residential, commercial, and industrial building construction within state responsibility areas approved after January 1, 1991, and within lands classified and designated as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code after July 1, 2021. The board may not adopt building standards, as defined in Section 18909 of the Health and Safety Code, under the authority of this section. As an integral part of fire safety standards, the State Fire Marshal has the authority to adopt regulations for roof coverings and openings into the attic areas of buildings specified in Section 13108.5 of the Health and Safety Code. The regulations apply to the placement of mobile homes as defined by National Fire Protection Association standards. These regulations do not apply where an application for a building permit was filed prior to January 1, 1991, or to parcel or tentative maps or other developments approved prior to January 1, 1991, if the final map for the tentative map is approved within the time prescribed by the local ordinance. The regulations shall include all of the following:

- (1) Road standards for fire equipment access.
- (2) Standards for signs identifying streets, roads, and buildings.
- (3) Minimum private water supply reserves for emergency fire use.
- (4) Fuel breaks and greenbelts.

(b) The board shall, on and after July 1, 2021, periodically update regulations for fuel breaks and greenbelts near communities to provide greater fire safety for the perimeters to all residential, commercial, and industrial building construction within state responsibility areas and lands classified and designated as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code, after July 1, 2021. These regulations shall include measures to preserve undeveloped ridgelines to reduce fire risk and improve fire protection. The board shall, by regulation, define "ridgeline" for purposes of this subdivision.

(c) These regulations do not supersede local regulations which equal or exceed minimum regulations adopted by the state.

(d) The board may enter into contracts with technical experts to meet the requirements of this section.

**SEC. 10.** Section 4290.1 is added to the Public Resources Code, to read:

**4290.1.** (a) On or before July 1, 2022, the board shall develop criteria and maintain a "Fire Risk Reduction Community" list of local agencies located in a state responsibility area or a very high fire hazard severity zone, identified pursuant to Section 51178 of the Government Code, that meet best practices for local fire planning.

(b) The board shall consider all of the following when developing the criteria for the list required under subdivision (a):

- (1) Participation in the National Fire Protection Association's "Firewise USA" or the National Wildfire Coordinating Group's "Fire Risk Reduction Communities" programs.
- (2) Adoption of the board's recommendations to improve the safety element pursuant to subdivision (b) of Section 65302.5 of the Government Code.
- (3) Recently developed or updated community wildfire protection plans.

**SEC. 11.** 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 wildland interface community at high risk of wildfire, as defined in pages 751 to 776, inclusive, of Volume 66 of the Federal Register (66 FR 751-02), as that definition may be amended from time to time. For purposes of this paragraph, "urban wildland interface community at high risk of wildfire" means an area having one or more structures for every five acres.

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

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

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

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

**SEC. 12.** Section 4556 is added to the Public Resources Code, immediately following Section 4555, to read:

**4556.** (a) The Forest Management Task Force shall report to the Legislature on or before July 1, 2020, on opportunities to streamline this act and associated rules and regulations to expedite forest health projects and fire prevention projects while preserving the resource protection functions of the act.

(b) (1) A report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on July 1, 2024.

**SEC. 13.** Section 4584 of the Public Resources Code is amended to read:

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

(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, as a member of a partnership, or as an officer or employee of a corporation or other legal entity, shall not obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has as a member, or if a corporation or other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual, as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this subdivision, means an individual, partnership, corporation, or other legal entity.

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

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

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in

subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

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

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

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

(h) An easement granted by a right-of-way construction agreement administered by the federal government if timber sales and operations within or affecting the area 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, 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) All fuel treatments conducted pursuant to this subdivision that do not comply with board rules and regulations may be determined to be a nuisance and subject to abatement by the department or the city or county having jurisdiction.

(B) 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) The cutting or removal of trees on the person's property 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. An exemption pursuant to this subdivision shall be known as the Small Timberland Owner Exemption. The cutting or removal of trees in compliance with this subdivision shall be subject to all of the following conditions:

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

(B) The residual stocking standards are consistent with the following standards and shall be achieved through uneven-aged management, as defined in Section 895.1 of Title 14 of the California Code of Regulations excluding group selection:

(i) On Site I lands at least 150 square feet of basal area shall be retained within the coast forest district, as defined in Section 907 of Title 14 of the California Code of Regulations, while at least 100 square feet of basal area shall be retained within the northern and southern districts, as defined in Section 908 or 909, respectively, of Title 14 of the California Code of Regulations.

(ii) On Site II lands at least 100 square feet of basal area shall be retained within the coast district, while at least 75 square feet of basal area shall be retained within the northern and southern districts.

(iii) On Site III lands at least 75 square feet of basal area shall be retained.

(C) (i) Forest management activities will increase the quadratic mean diameter of the stand.

(ii) Increases in quadratic mean diameter shall only consider trees greater than eight inches in diameter at breast height. The registered professional forester responsible for preparation of the notice of exemption shall report the expected postharvest increase in quadratic mean diameter.

(D) (i) The residual stand consists primarily of healthy and vigorous dominant and codominant trees from the preharvest stand, well distributed through the harvested area.

(ii) No trees of the genus *quercus* that are greater than 26 inches diameter at stump height, measured 8 inches above ground level, shall be harvested under a notice of exemption submitted pursuant to this subdivision.

(iii) No trees greater than 32 inches diameter at stump height, measured 8 inches above ground level, shall be harvested under a notice of exemption submitted pursuant to this subdivision.

(iv) The six largest trees per acre within the boundaries of a notice of exemption submitted pursuant to this subdivision shall not be harvested.

(v) The postharvest composition of tree species shall be representative of the preharvest stand condition and demonstrate progression towards climax forest conditions, unless the registered professional forester provides justification explaining how modification of species diversity will benefit forest health and resiliency.

(E) The submitted notice of exemption shall include a description of the preharvest stand structure and a statement of the minimum expected postharvest stocking.

(F) All trees that are harvested or all trees that are retained shall be marked by, or under the supervision of, a registered professional forester before felling operations begin.

(G) The board shall adopt regulations for the treatment of understory vegetation and standing dead fuels, canopy closure, clearance to base of live crown, or ladder fuels, that could promote the spread of wildfire. A fuel reduction effort conducted under a submitted notice of exemption pursuant to this subdivision shall comply with the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(H) A notice of exemption submitted to the department that is within the coast forest district is submitted for a small forestland owner who owns 60 acres or less of timberland within a single planning watershed.

(I) A notice of exemption submitted to the department that is within the northern forest district or the southern forest district is submitted for a small forestland owner who owns 100 acres or less of timberland within a single planning watershed.

(2) (A) All timber operations conducted pursuant to this subdivision may only occur once on any given acre per any 10-year period of time. The department shall only grant a maximum of three exemptions under the Small Timberland Owner Exemption per landowner.

(B) Except for the harvesting of dead, diseased, or dying trees, during this 10-year period the department shall not approve a plan, as defined in Section 895.1 of Title 14 of the California Code of Regulations, that allows even-aged silviculture prescriptions. During this 10-year period of time a registered professional forester shall not submit a notice of exemption pursuant to subdivision (k) on portions of the property subject to an exemption pursuant to this subdivision.

(3) The department may conduct an onsite inspection to determine compliance with this subdivision. The department may notify the Regional Water Quality Control Board, the Department of Fish and Wildlife, and the California Geologic Survey prior to conducting the onsite inspection. The Regional Water Quality Control Board, the Department of Fish and Wildlife, and the California Geologic Survey may conduct an inspection with the department.

(4) (A) This subdivision shall be operative for a period of five years after the effective date of emergency regulations as adopted by the board and as of that date is inoperative.

(B) The board shall notify the Secretary of State when emergency regulations have been adopted.

(k) (1) 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. An exemption pursuant to this paragraph shall be known as the Forest Fire Prevention Exemption.

(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. Increases in quadratic mean diameter shall only consider trees greater than eight inches in diameter at breast height. The notice of exemption may be authorized only if all of the conditions specified in paragraphs (3) to (9), inclusive, are met.

(3) A registered professional forester shall prepare the notice of exemption and submit it to the director.

(4) (A) The submitted notice of exemption shall include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels and the expected postharvest increase in quadratic mean diameter.

(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 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 Sections 913.3, 933.3, and 953.3 of Title 14 of the California Code of Regulations, where appropriate.

(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.

(D) 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.

(5) (A) The board shall adopt regulations for the treatment of understory vegetation and standing dead fuels, canopy closure, clearance to base of live crown, or ladder fuels, that could promote the spread of wildfire. A fuel reduction effort conducted under a submitted notice of exemption pursuant to this subdivision shall comply with the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

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

(C) 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.

(D) The standards required by subparagraphs (A) to (C), inclusive, shall be achieved on approximately 80 percent of the treated area.

(6) Prior to submission of a notice of exemption to the department, the registered professional forester responsible for submitting the notice shall designate temporary road locations, landing locations, tractor road crossings of class III watercourses, unstable areas, or connected headwall swales on the ground and map their locations.

(7) The construction or reconstruction of temporary roads on slopes of 30 percent or less shall be allowed if all of the following conditions are met:

(A) Temporary roads or landings shall not be located on unstable areas, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(B) Temporary roads shall be single-lane in width.

(C) Temporary roads shall not be located across a connected headwall swale, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(D) Construction or reconstruction of temporary roads, landings, or watercourse crossings shall not occur during the winter operating period. Pursuant to subdivision (g) of Sections 923.6, 943.6, and 963.6, as applicable, of Title 14 of the California Code of Regulations, roads and landings used for log hauling or other heavy equipment uses during the winter period shall occur on a stable operating surface and, where necessary, be surfaced with rock to a depth and quantity sufficient to maintain the stable operating surface. Use shall be prohibited on roads that are not hydrologically disconnected and exhibit saturated soil conditions. Timber operations during the winter period shall comply with paragraphs (1) and (2) of subdivision (c) of Sections 914.7, 934.7, and 954.7, as applicable, of Title 14 of the California Code of Regulations.

(E) Use of temporary roads shall comply with the operational provisions of Article 12 (commencing with Section 923) of Title 14 of the California Code of Regulations, and recognize guidance on hydrologic disconnection in Technical Rule Addendum Number 5.

(F) No logging road or landings construction or reconstruction activities of any kind shall occur within 200 feet of class I and class II watercourses or within 50 feet of a class III watercourses.

(G) The landowner shall retain a registered professional forester who is available to provide professional advice to the licensed timber operator and timberland owner throughout the active timber operations. The name, address, telephone number, and registration number of the retained registered professional forester shall be provided on the submitted notice of exemption. This professional advice shall include overseeing the construction or reconstruction of any temporary roads or landings and advising on necessary mitigation to avoid potential impacts to associated watershed and forest resources. The registered professional forester shall also comply with Section 1035.2 of Title 14 of the California Code of Regulations, relating to interaction between the licensed timber operator and the registered professional forester.

(H) The registered professional forester responsible for submitting the notice of exemption shall affirm that the construction or reconstruction of each temporary road is necessary to provide access to harvest areas where no feasible alternative exists. The submitted notice of exemption shall include the number and cumulative length of temporary roads that will be constructed or reconstructed.

(I) (i) Temporary road construction or reconstruction, shall be limited to no more than two miles of road per ownership in a planning watershed per any five-year period.

(ii) For each exemption affecting less than 40 acres, all temporary roads constructed or reconstructed under this exemption shall not exceed a cumulative length of 300 feet.

(iii) For each exemption affecting between 40 and 80 acres, all temporary roads constructed or reconstructed under this exemption shall not exceed a cumulative length of between 300 and 600 feet, as determined on a pro rata basis by the total acreage affected by the exemption.

(iv) For each exemption affecting over 80 acres, all temporary roads constructed or reconstructed under the exemption shall not exceed a cumulative length of 600 feet. The submitted notice of exemption shall list the number of acres affected and the cumulative length of the road in feet.

(v) Temporary roads constructed or reconstructed under this exemption shall not be connected to other temporary roads constructed under previous or subsequent exemptions filed under this paragraph.

(vi) All temporary roads shall be abandoned using proactive measures that have been applied to effectively remove them from the permanent road network, in accordance with the definition of abandoned road as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(vii) This paragraph shall not be interpreted to permit road construction or reconstruction except as authorized under the Forest Fire Prevention Exemption, pursuant to this paragraph.

(viii) No trees larger than 36 inches in diameter at stump height, measured 8 inches above ground level, shall be removed for the purposes of road construction or reconstruction under a notice of exemption submitted pursuant to this subdivision. A tree that is between 30 and 36 inches in diameter at stump height, measured 8 inches above ground level, may be removed for the purposes of road construction or reconstruction under a notice of exemption submitted pursuant to this subdivision only if there are no feasible alternatives for the road placement.

(8) Except within constructed or reconstructed temporary road prisms, only trees less than 30 inches in stump diameter, measured at eight inches above ground level, may be removed.

(9) All timber operations conducted pursuant to this subdivision shall only occur within the most recent version of the department's Fire Hazard Severity Zone Map in the moderate, high, and very high fire threat zones.

(10) If pesticides or herbicides will be used within the boundaries of an area covered by a notice of exemption pursuant to this paragraph within one year of director acceptance, the timberland owner shall notify the appropriate regional water quality control board 10 days prior to application of any pesticides or herbicides.

(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. The department shall notify the appropriate Regional Water Quality Control Board, the Department of Fish and Wildlife, and the California Geologic Survey seven days prior to conducting the onsite inspection. The Regional Water Quality Control Board, the Department of Fish and Wildlife, and the California Geologic Survey may conduct an inspection with the department.

(12) (A) This subdivision shall be operative for a period of five years after the effective date of emergency regulations as adopted by the board and as of that date is inoperative.

(B) The board shall notify the Secretary of State when emergency regulations have been adopted.

(l) The cutting or removal of trees to restore and conserve California black or Oregon white oak woodlands and associated grasslands, if all of the following requirements are met:

(1) A registered professional forester shall prepare the notice of exemption and submit it to the director. The notice shall include all of the following:

(A) A certification signed by the registered professional forester that a minimum of 35 square feet of basal area per acre of California black or Oregon white oak, or both, occupy the proposed treatment area at the time the notice is prepared and the timber operation is designed to restore and conserve California black and Oregon white oak woodlands and associated grasslands.

(B) A description of the preharvest stand structure and a statement of the postharvest stand stocking levels.

(2) No tree larger than 26 inches in diameter at stump height shall be harvested for commercial purposes, which includes use for saw logs, posts and poles, fuel wood, biomass, or other forest products.

(3) Only conifers within 300 feet of a California black or Oregon white oak that are at minimum four inches in diameter at breast height may be harvested.

(4) The total area exempted pursuant to this subdivision shall not exceed 300 acres per property per five-year period.

(5) Conifer shall be reduced to less than 25 percent of the combined hardwood and conifer postharvest stand stocking levels.

(6) No more than 20 percent of the total basal area of preexisting oak stock shall be cut or removed during harvest and a minimum of 35 square feet of basal area per acre of California black or Oregon white oak, or both, shall be maintained postharvest.

(7) Slash shall be configured so as to minimize the risk of fire mortality to the remaining oak trees.

(8) The board shall adopt regulations to implement this subdivision.

(9) This subdivision shall not apply to the Southern Subdistrict of the Coast Forest District, as defined in Section 895.1 of Title 14 of the California Code of Regulations, or the Southern Forest District, as defined in Section 909 of Title 14 of the California Code of Regulations.

(m) (1) The board may exempt from this chapter, or portions of this chapter, a person engaged in forest management whose activities are limited to the cutting or removal of trees on the person's property 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 fuelbreak for a distance of not more than 300 feet on each side from an approved and legally permitted habitable structure, when that cutting or removal is conducted in compliance with this subdivision and all of the following conditions are met:

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

(B) For the areas between 150 and 300 feet from the habitable structure, the operations meet all of the following provisions:

(i) The residual stocking standards are consistent with Sections 913.2, 933.2, and 953.2 of Title 14 of the California Code of Regulations, as appropriate.

(ii) Activities within this area will increase the quadratic mean diameter of the stand.



(iii) The residual stand consists primarily of healthy and vigorous dominant and codominant trees from the preharvest stand, well distributed throughout the harvested area.

(iv) Postharvest slash treatment and stand conditions will lead to more moderate fire behavior in the professional judgment of the registered professional forester who submits the notice of exemption.

(v) Any additional guidance for slash treatment and postharvest stand conditions and any other issues deemed necessary that are consistent with this section, as established by the board.

(2) For purposes of this subdivision, "habitable structure" means a building that contains one or more dwelling units or that can be occupied for residential use. Buildings occupied for residential use include single family homes, multidwelling structures, mobile and manufactured homes, and condominiums. For purposes of this subdivision, "habitable structure" does not include commercial, industrial, or incidental buildings such as detached garages, barns, outdoor sanitation facilities, and sheds.

(3) This subdivision shall become inoperative on January 1, 2022.

**SEC. 14.** Section 4584.1 is added to the Public Resources Code, to read:

**4584.1.** Rules and regulations adopted by the board pursuant to Section 4584, except subdivision (k) of Section 4584, shall comply with the following standards, as determined appropriate and necessary by the board:

(a) Notices of exemption that are prepared and submitted to the director shall include a map of the area of operations that complies with the requirements of paragraphs (1), (3), and (4), subparagraphs (A), (B), (D), and (E) of paragraph (5), paragraphs (7) to (12), inclusive, and paragraph (14) of subdivision (x) of Section 1034 of Title 14 of the California Code of Regulations.

(b) Notices of exemption that are prepared and submitted to the director shall provide a confidential archaeological letter that includes all the information required by paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Sections 929.1, 949.1 and 969.1, as applicable, of Title 14 of the California Code of Regulations, and 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. This subdivision shall not apply to activities described in subdivision (i) or (m) of Section 4584.

(c) All fuel treatments required by the board shall be completed within one year from the date the director receives the notice, with the exception of burning. This shall include treatment of surface fuels, wood debris, and slash, which shall be lopped, removed, chipped, piled for burning, or otherwise treated. Burning shall be completed within two years from the date the director receives the notice of exemption.

(d) Slash and woody debris shall be treated to achieve a maximum post harvest depth of 18 inches above the ground except within 150 feet from any point of an approved and legally permitted structure that complies with the California Building Code. Surface fuels, slash, and woody debris within 150 feet from any point of an approved and legally permitted structure that complies with the California Building Code shall be chipped, piled and burned, or removed.

(e) 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.

(f) All timber operations conducted in Lake Tahoe Region must have a valid Tahoe Basin Tree Removal Permit, as defined by the Tahoe Regional Planning Agency (TRPA), or shall be conducted under a valid TRPA Memorandum of Understanding, when such a permit is required by TRPA.

(g) The submitted notice of exemption shall include selection criteria for the trees to be harvested or the trees to be retained.

(h) The department shall provide the appropriate regional water quality control board, the Department of Fish and Wildlife, and the California Geologic Survey with copies of notices of exemption when they are submitted.

(i) The submitted notice of exemption shall include the tentative commencement date of timber operations.

(j) Within a 15-day period, the registered professional forester or person responsible for the submittal of the notice of exemption shall notify the department, the Department of Fish and Game, the appropriate regional water quality control board, and the California Geologic Survey of the actual date of commencement of timber operations.

(k) Timber operations pursuant to an exemption may not commence for 10 working days from the date of the director's receipt of the notice of exemption unless this delay is waived by the director. The director shall determine whether the notice of exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter. If the notice of exemption is not complete and accurate, it shall be returned to the submitter and the timber operator may not proceed. If the director does not act within 10 days of receipt of the notice of exemption, timber operations may commence.

(l) (1) No large old trees, defined as a tree that existed before 1800 AD or is greater than 60 inches in diameter at stump height for Sierra or Coast Redwoods, and 48 inches in diameter at stump height for all other tree species or Decadent and Deformed Trees with Value to Wildlife, as defined in Section 895.1 of Title 14 of the California Code of Regulations, shall be harvested unless the following apply:

(A) The tree is not critical for the maintenance of a Late Successional Stand.

(B) A registered professional forester attached to the submitted notice of exemption a written explanation and justification for the harvest of the tree based on the registered professional forester's finding of any of the following:

(i) The tree is a hazard to safety or property.

(ii) The removal of the tree is necessary for the construction of a building as approved by the appropriate local jurisdiction and shown on the county or city approved site plan, which shall be attached to the submitted notice of exemption.

(iii) The tree is dead or likely to die within one year of the date of the proposed removal, as determined by a registered professional forester.

(2) A registered professional forester-written explanation or justification need not be attached to the submitted notice of exemption if an approved Habitat Conservation Plan, Sustained Yield Plan, or plan, as that term is as defined in Section 895.1 of Title 14 of the California Code of Regulations addresses large old tree retention for the area in which the large old tree is proposed for removal and the removal is in compliance with the retention standards of that document.

(3) Any tree harvested pursuant to this subdivision shall be shown on a map provided with the submitted notice of exemption to the department.

(4) This subdivision shall not apply to or be used in conjunction with either the Small Timberland Owner Exemption created pursuant to subdivision (j) of Section 4584 or with the Forest Fires Prevention Exemption created pursuant to subdivision (k) of Section 4584.

(m) Helicopter yarding shall be prohibited.

(n) All applicable provisions of the Professional Foresters Law, including, but not limited to, Sections 775 to 779, inclusive, of this code, as well as all applicable provisions of Registration of Professional Forester Rules, including, but not limited to, Sections 1612 to 1614, inclusive, of Title 14 of the California Code of Regulations, shall apply to the practice of professional forestry as it relates to this section.

**SEC. 15.** Section 4584.2 is added to the Public Resources Code, to read:

**4584.2.** Rules and regulations adopted by the board pursuant to subdivision (k) of Section 4584, shall comply with the following standards:

(a) Notices of exemption that are prepared and submitted to the director shall include a map of the area of operations that complies with the requirements of paragraphs (1), (3), and (4), subparagraphs (A), (B), (D), and (E) of paragraph (5), paragraphs (7) to (12), inclusive, and paragraph (14) of subdivision (x) of Section 1034 of Title 14 of the California Code of Regulations.

(b) Notices of exemption that are prepared and submitted to the director shall provide a confidential archaeological letter that includes all the information required by paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Sections 929.1, 949.1 and 969.1, as applicable, of Title 14 of the California Code of Regulations, and 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.

(c) All fuel treatments required by the board shall be completed within one year from the date the director receives the notice, with the exception of burning. This shall include treatment of surface fuels, wood debris, and slash, which shall be lopped, removed, chipped, piled for burning, or otherwise treated. Burning shall be completed within two years from the date the director receives the notice of exemption.

(d) Slash and woody debris shall be treated to achieve a maximum post harvest depth of 18 inches above the ground except within 150 feet from any point of an approved and legally permitted structure that complies with the California Building Code. Surface fuels, slash, and woody debris within 150 feet from any point of an approved and legally permitted structure that complies with the California Building Code shall be chipped, burned, or removed.

(e) Timber operations shall comply with the requirements of paragraphs (1) to (4), inclusive, and (6) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations.

- (f) All timber operations conducted in Lake Tahoe Region must have a valid Tahoe Basin Tree Removal Permit, as defined by the Tahoe Regional Planning Agency (TRPA), or shall be conducted under a valid TRPA Memorandum of Understanding, when such a permit is required by TRPA.
- (g) The submitted notice of exemption shall include selection criteria for the trees to be harvested or the trees to be retained.
- (h) The department shall provide the appropriate regional water quality control board, the Department of Fish and Wildlife, and the California Geologic Survey with copies of notices of exemption when they are submitted.
- (i) The submitted notice of exemption shall include the tentative commencement date of timber operations.
- (j) Within a 15-day period, the registered professional forester responsible for the submittal of the notice of exemption shall notify the department, the Department of Fish and Game, the appropriate regional water quality control board, and the California Geologic Survey of the actual date of commencement of timber operations.
- (k) Operations pursuant to an exemption may not commence for 10 working days from the date of the director's receipt of the notice of exemption unless this delay is waived by the director. The director shall determine whether the notice of exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter. If the notice of exemption is not complete and accurate, it shall be returned to the submitter and the timber operator may not proceed. If the director does not act within five days of receipt of the notice of exemption, timber operations may commence.
- (l) (1) No Decadent and Deformed Trees with Value to Wildlife, as defined in Section 895.1 of Title 14 of the California Code of Regulations, shall be harvested unless all the following apply:
- (A) The tree is not critical for the maintenance of a Late Successional Stand.
  - (B) A registered professional forester attached to the submitted notice of exemption a written explanation and justification for the harvest of the tree based on the registered professional forester's finding of any of the following:
    - (i) The tree is a hazard to safety or property.
    - (ii) The removal of the tree is necessary for the construction of a building as approved by the appropriate local jurisdiction and shown on the county or city approved site plan which shall be attached to the submitted notice of exemption.
    - (iii) The tree is dead or likely to die within one year of the date of the proposed removal, as determined by a registered professional forester.
- (2) A registered professional forester's written explanation or justification need not be attached to the submitted notice of exemption if an approved Habitat Conservation Plan, Sustained Yield Plan, or plan as that term is defined in Section 895.1 of Title 14 of the California Code of Regulations addresses large old tree retention for the area in which the large old tree is proposed for removal and the removal is in compliance with the retention standards of that document.
- (3) Any tree harvested pursuant to this subdivision shall be shown on a map provided with the submitted notice of exemption to the department.
- (4) This subdivision shall not apply to or be used in conjunction with either the Small Timberland Owner Exemption created pursuant to subdivision (j) of Section 4584 or with the Forest Fires Prevention Exemption created pursuant to subdivision (k) of Section 4584.
- (m) Helicopter yarding shall be prohibited.
- (n) All applicable provisions of the Professional Foresters Law, including, but not limited to, Sections 775 to 779, inclusive, of this code, as well as all applicable provisions of Registration of Professional Forester Rules, including, but not limited to, Sections 1612 to 1614, inclusive, of Title 14 of the California Code of Regulations apply to the practice of professional forestry as it relates to this section.

**SEC. 16.** Section 4589 of the Public Resources Code is amended to read:

**4589.** (a) The department and board, in consultation with the Department of Fish and Wildlife, and the State Water Resources Control Board, shall commencing December 31, 2019, and annually thereafter, review and submit a report to the Legislature on the trends in the use of, compliance with, and effectiveness of, the exemptions and emergency notice provisions described in Sections 4584 and 4592 of this code and Sections 1038 and 1052 of Title 14 of the California Code of Regulations. The report shall include an analysis of exemption use and whether the exemptions are having the intended effect. The report shall also include recommendations to improve the use of those exemptions and emergency notice provisions, information on the linear

distance of road constructed or reconstructed under notices of exemption by individual ownerships, within a representative sample of planning watersheds from each forest practice district as defined in Sections 907 to 909, inclusive, of Title 14 of the California Code of Regulations, and violations associated with road reconstruction. The report shall include information on the number and type of violations and enforcement actions taken on each notice of exemption and emergency notice. The report shall also contain the number of post-treatment onsite inspections that occur and whether those inspections were attended by a representative of the Department of Fish and Wildlife and a representative of the State Water Resources Control Board. The report submitted on December 31, 2025, shall include recommendations necessary for revisions to diameter limits at stump heights of harvestable trees under subdivisions (j) and (k) of Section 4584.

(b) The public shall be provided opportunities to participate in the review and the development of the report.

(c) The report shall be submitted pursuant to Section 9795 of the Government Code.

(d) (A) This section shall be operative for a period of five years after the effective date of emergency regulations as adopted by the board and as of that date is inoperative.

(B) The board shall notify the Secretary of State when emergency regulations have been adopted.

**SEC. 17.** Section 4593.2 of the Public Resources Code is amended to read:

**4593.2.** 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. A nonindustrial timber management plan may include multiple nonindustrial tree farmers, but shall not cover more than 2,500 acres.

(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.

**SEC. 18.** Section 4597 of the Public Resources Code is amended to read:

**4597.** (a) The Legislature finds and declares all of the following:

(1) The nonindustrial timber management plan established pursuant to Article 7.5 (commencing with Section 4593) has been successful in meeting the intent of this chapter by encouraging prudent and responsible forest management and discouraging accelerated timberland conversion by private nonindustrial forest landowners.

(2) There have been more than 850 nonindustrial timber management plans approved by the department covering a combined area of more than 360,000 acres.

(3) Building upon the model provided by the nonindustrial timber management plan, it is the policy of the state to encourage long-term planning, increased productivity of timberland, and the conservation of open space on a greater number of nonindustrial working forest ownerships and acreages.

(4) It is the policy of the state to encourage prudent and responsible forest resource management of nonindustrial timberlands by approving working forest management plans in advance and authorizing working forest timber harvest notices to be filed ministerially.

(5) To ensure long-term benefits such as added carbon sequestration, local and regional employment and economic activity, sustainable production of timber and other forest products, aesthetics, and the maintenance of ecosystem processes and

services, the working forest management plan shall comply with rigorous timber inventory standards that are subject to periodic review and verification.

(b) This article shall be implemented in a manner that complies with the applicable provisions of this chapter and other laws, including, but not limited to, the Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Division 1 of Title 5 of the Government Code), the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the Porter Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of the Fish and Game Code). Working forest landowners, as defined in Section 4597.1, shall comply with all applicable regulatory requirements of the State Water Resources Control Board and the appropriate regional water quality control board.

**SEC. 19.** Section 4597.1 of the Public Resources Code is amended to read:

**4597.1.** Notwithstanding Section 4521, unless the context otherwise requires, the following definitions govern construction of this article:

(a) "Long-term sustained yield" means the average annual growth sustainable by the inventory predicted at the end of a 100-year planning horizon, or a shorter planning horizon if the forest encompassed by the working forest management plan has reached a balance between growth and yield.

(b) "Major stand type" means a stand that occupies an area equal to or greater than 25 percent of a working forest management plan.

(c) "Management unit" means a geographically identifiable area delineated for silviculture or management purposes. A management unit is intended to reflect an area scheduled for harvest under the plan in any given year, but may also be designated to address specific resource sensitivities.

(d) "Stand" means a geographically identifiable group of trees sufficiently uniform in age-class distribution, composition, and structure and growing on a site of sufficiently uniform quality to be a distinguishable unit.

(e) "Strata" means a grouping of similar stands defined for silvicultural or management purposes, usually according to similarities in stand composition, structure, and age.

(f) "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 that is professionally planned to achieve over time a balance between growth and removal. Sustained yield management implies continuous production planned so as to achieve, at the earliest practical time, a balance between growth and harvest.

(g) "Uneven aged management" means forest management with the goal of establishing a well-stocked stand of various age classes, which permits the periodic harvest of individual or small groups of trees to achieve sustained yield objectives of the working forest management plan, and provide for regeneration of trees and maintenance of age class structure.

(h) "Working forest harvest notice" means notice of timber harvest operations, pursuant to an approved working forest management plan, which meets the requirements of Section 4597.11.

(i) "Working forest landowner" means an owner of timberland with less than 10,000 acres who has an approved working forest management plan and is not primarily engaged in the manufacture of forest products.

(j) "Working forest management plan" means a management plan for working forest timberlands, with objectives of maintaining, restoring, or creating uneven aged managed timber stand conditions, achieving sustained yield, and promoting forestland stewardship that protects watersheds, fisheries and wildlife habitats, and other important values. A working forest management plan may include multiple working forest landowners, but shall cover no more than 10,000 acres of timberland. The harvest area, as defined in Section 895.1 of Title 14 of the California Code of Regulations, of a working forest management plan must be contained within a single hydrologic area as defined by State Water Resources Control Board's CalWater 2.2.

(k) "Working forest timberlands" means timberland owned by a working forest landowner.

**SEC. 20.** Section 4597.2 of the Public Resources Code is amended to read:

**4597.2.** A working forest management plan may be submitted to the department in writing by a person who intends to become a working forest landowner with the long-term objective of an uneven aged timber stand and sustained yield through the implementation of a working forest management plan. The management plan shall be prepared by a registered professional forester. It shall be 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 the 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 by the registered professional forester of the inventory design and timber stand stratification criteria that demonstrates that the inventory supporting the growth and yield calculations used to determine long-term sustained yield for the working forest management plans meets the following minimum standards:

(1) For major stand or strata, the inventory estimate shall be within 15 percent of the mean at one standard error.

(2) For stand or strata that make up greater than 10 percent and less than 25 percent of the working forest management plan area, the estimate shall be no greater than 25 percent of the mean at one standard error.

(3) Inventory estimates and growth and yield shall be projected for the purposes of determining long-term sustained yield and volumes available for harvest by stand or strata and aggregated for the area covered by the working forest management plan to develop the long-term sustained yield estimate. Long-term sustained yield estimates shall reasonably reflect constraints applicable to the working forest timberlands on forest management activities.

(d) All necessary information shall demonstrate compliance with Article 12 (commencing with Section 923) of Subchapter 4 of, Article 11 (commencing with Section 943) of Subchapter 5 of, and Article 12 (commencing with Section 963) of Subchapter 6 of, Division 1.5 of Title 14 of the California Code of Regulations.

(e) Special provisions to protect unique areas, if any, within the boundaries of the proposed working forest management plan.

(f) A description of the property and planned activities including acres and projected growth, existing stand types, major stand types or strata, its current projected growth by strata, silvicultural applications to be applied to strata to achieve long-term sustained yield, projected timber volumes and tree sizes to be available for harvest, and projected frequencies of harvest.

(g) (1) A description of late succession forest stands in the plan area and how the total acreage of this type of habitat will be maintained across the plan area under a constraint of no net loss. Nothing in this requirement shall be interpreted to preclude active management on any given acre of an approved plan if the management is conducted in a manner that maintains or enhances the overall acreage of late succession forest stands that existed in the plan area upon initial plan approval. An exception to the no net loss constraint may be granted in the event of a catastrophic loss due to emergency factors such as wildfire, insect, and disease activity. The description shall include the following:

(A) Retention measures for existing biological legacies such as snags, trees with cavities or basal hollows, and down logs, and address how those legacies shall be managed over time appropriate with the forest type, climate, and landowner's forest fire fuels and wildlife management objectives.

(B) Hardwood tree species and how they will be managed over time.

(2) Late succession forest stand types or strata shall be mapped.

(3) Notwithstanding the definition of late succession forest stands in Section 895.1 of Title 14 of the California Code of Regulations, and for the sole purpose of this article, "late succession forest stands" means stands of dominant and predominant trees that meet the criteria of the California Wildlife Habitat Relationships System class 5D, 5M, or 6 with an open, moderate, or dense canopy closure classification, often with multiple canopy layers, and are at least 10 acres in size. Functional characteristics of late succession forest stands include large decadent trees, snags, and large down logs.

(h) Disclosure of state or federally listed threatened, candidate, endangered, or rare plant or animal species located within the biological assessment area, their status and habitats, take avoidance methodologies, enforceable protection measures for species and habitats, and how forest management will maintain these over time.

(i) (1) A description of the following for each management unit:

(A) Acres by stand or strata and estimated growth and yield for each planned harvest entry covering the period of time the long-term sustained yield plan establishes as necessary to meet growth and yield objectives. The growth and yield estimates may be based on weighted average of yield for the stand types or strata within the area included in the management unit.

(B) Yarding methods to be used.

(C) Management units shall be mapped.

(2) (A) For long-term sustained yield projections, pursuant to subdivision (c), that project a reduction in quadratic mean diameter of trees greater than 12 inches in diameter or a reduced level of inventory for a major stand type or for a stand or strata that make up greater than 10 percent and less than 25 percent of the working forest management plan area, an assessment shall be included that does all of the following:

(i) Addresses candidate, threatened, endangered, and sensitive species, and other fish and wildlife species that timber operations could adversely impact by potential changes to habitat.

(ii) Addresses species habitat needs utilizing the "WHR system" described in "A Guide to Wildlife Habitats in California," California Department of Fish and Wildlife, 1988, or comparable typing system.

(iii) Addresses constraints to timber management, the impact of the availability and distribution of habitats on the ownership and within the cumulative impacts assessment area identified in the plan in relation to the harvest schedule, and the impacts of the planned management activities utilizing the existing habitat as the baseline for comparison.

(iv) Discusses and includes feasible measures planned to avoid or mitigate potentially significant adverse impacts on fish or wildlife, which can include, but is not limited to, recruitment or retention of large down logs greater than 16 inches in diameter and 20 feet in length, retention of trees with structural features such as basal hollows, cavities, large limbs, or broken tops, retention of hardwoods, and retention or recruitment of snags greater than 24 inches in diameter and 16 feet in height.

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

(k) A certification by the registered professional forester preparing the plan that the forester or a designee has clearly explained to the working forest landowner that the plan is a long-term commitment that may require ongoing investments, including inventory sampling and road maintenance, for the purpose of managing the plan.

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

**SEC. 21.** Section 4597.6 of the Public Resources Code is amended to read:

**4597.6.** (a) The department shall provide a time period for public comment, starting from the date of the receipt of a working forest management plan, as follows:

(1) Ninety days for a working forest management plan for less than 5,000 acres.

(2) One hundred ten days for a working forest management plan for between 5,000 and 10,000 acres.

(b) Before a working forest management plan may be approved, all of the following requirements shall be met:

(1) Within 30 working days of the receipt of a working forest management plan, or within 40 working days of the receipt of a plan to which a road management plan is appended, the department shall determine if the plan is accurate, complete, and in proper order, and if so, the plan shall be filed. An unfiled plan shall be returned to the applicant with an explanation that includes provisions for resubmitting the plan.

(2) The initial inspection shall be initiated within 20 working days from the date of filing of the working forest management plan, and completed no more than 30 working days from the date of filing.

(3) Upon completion of the initial inspection, the department shall have up to 45 working days to conduct the final interagency review of the plan.

(4) The public comment period shall end 20 working days after the completion of the final interagency review of the plan or until the requirement in subdivision (a) is met, whichever is greater.

(5) After the final interagency review and public comment period has ended, the department shall have up to 30 working days to review the public input, to consider 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 applicable rules adopted by the board and other applicable provisions of law.

(c) If after final interagency review the director determines that the plan is not in conformance with the rules and regulations of the board or this chapter, the director shall deny and return the plan, stating the reasons for the denial and advising the person submitting the plan of the person's right to a hearing before the board.

(d) If the director does not act within the time periods provided in paragraphs (1) through (5) in subdivision (b), the director and the working forest landowner submitting the working forest management plan shall negotiate and mutually agree upon a longer period for the director to review the plan. If a longer period cannot be mutually agreed upon, the working forest management plan shall be deemed denied and returned to the working forest landowner submitting the plan.

(e) (1) A working forest landowner to whom a plan is denied pursuant to subdivision (c) or (d) may request, within 30 working days from the receipt of the plan, 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.

(2) Board action shall take place within 30 working days from the filing of the appeal, or a longer period mutually agreed upon by the board and the person filing the appeal.

(3) If the director's decision to deny the plan is overturned by the board, the board shall prepare findings and its rationale for overturning the decision, and return the plan to the department for approval by the director.

(4) If the plan is not approved on appeal to the board, the director, within 10 working days of board action, shall advise the plan submitter regarding changes needed that would achieve compliance with this chapter and other applicable provisions of the law. The plan submitter shall have 45 working days from the date of the notification letter, or longer, if mutually agreeable to the department and the plan submitter to revise the plan to bring it into full conformance with the rules and regulations of the board and this chapter. Upon receipt of the information requested of the plan submitter, the department shall recirculate the plan and reopen the public comment period for 30 working days. Prior to determining whether to approve the proposed revised plan, the director shall have 30 working days to review public input and consider recommendations and mitigation measures of other agencies, and to respond in writing to issues raised.

**SEC. 22.** Section 4597.20 of the Public Resources Code is repealed.

**SEC. 23.** Section 4799.05 of the Public Resources Code is amended to read:

**4799.05.** (a) The director may provide grants to, or enter into contracts or other cooperative agreements with, entities, including, but not limited to, private or nongovernmental entities, Native American tribes, or local, state, and federal public agencies, for the implementation and administration of projects and programs to improve forest health and reduce greenhouse gas emissions.

(b) Any project or program described in this section that is funded with moneys from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code, shall comply with all statutory and program requirements applicable to the use of moneys from the fund.

(c) Moneys appropriated to the department for landscape-scale projects shall be allocated as follows:

(1) To subsidize the removal of small diameter material, especially surface fuels and ladder fuels, as well as dead trees, in order to help develop markets for beneficial uses of the material, including, but not limited to, animal bedding, biochar, cross-laminated timber, mulch, oriented strandboard, pulp, post, shredding, and veneer products.

(2) For multiple benefit projects, such as tree thinning, carbon sequestration, forest resilience, and improved ecological outcome projects, including, but not limited to, restoring watershed health and function and supporting biodiversity and wildlife adaptation to climate change. The department shall give grant funding priority to landowners who practice uneven-age forest management with a resilient forest of diverse age, size, and species class within the boundaries of the project and whose activities are conducted pursuant to an approved timber harvest plan, nonindustrial timber harvest plan, or working forest management plan. An application for a grant for a project under this subparagraph shall include a description of how the proposed project will increase average stem diameter and provide other site-specific improvement to forest complexity, as demonstrated by the expansion of the variety of tree age classes and species persisting for a period of at least 50 years. The department shall also give funding priority to landowners who agree to long-term forest management goals prescribed by the department.

(3) For activities on National Forest lands to increase tree stand heterogeneity, create forest openings of less than one acre, and increase average tree stand diameter of residual trees. Any grants provided under this subparagraph shall be approved by the department, in collaboration with appropriate state agencies, including the State Air Resources Board.

(d) (1) Division 13 (commencing with Section 21000) does not apply to prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321) if either of the following is satisfied:

(A) The primary role of a state or local agency is providing funding or staffing for those projects.



(B) A state or local agency is undertaking those projects pursuant to the federal Good Neighbor Authority (Public Law 113-79) or a stewardship agreement with the federal government entered into pursuant to Public Law 113-79.

(2) Division 13 (commencing with Section 21000) does not apply to the issuance of a permit or other project approval by a state or local agency for projects described in paragraph (1).

(3) This section does not alter, affect, or in any way diminish the authority of a state or local agency to impose mitigation measures or conditions on projects described in paragraph (1) pursuant to other laws or regulations.

(4) Commencing December 31, 2019, and annually thereafter, the department shall report to the relevant policy committees of the Legislature the number of times the process in this subdivision was used.

(5) (A) This subdivision shall remain operative only if the Secretary of the Natural Resources Agency certifies on or before January 1 of each year that the National Environmental Policy Act of 1969 or other federal laws that affect the management of federal forest lands in California have not been substantially amended on or after August 31, 2018.

(B) Any CEQA exemption established under this subdivision shall continue in effect for those projects conducted under a National Environmental Policy Act record of decision, finding of no significant impact, or notice of exemption or exclusion that was issued prior to the date by which the Secretary determines that the National Environmental Policy Act or federal forest management laws were substantially amended.

(6) This subdivision shall become inoperative on January 1, 2023.

**SEC. 24.** Section 4799.05 of the Public Resources Code is amended to read:

**4799.05.** (a) (1) The director may provide grants to, or enter into contracts or other cooperative agreements with, entities, including, but not limited to, private or nongovernmental entities, Native American tribes, or local, state, and federal public agencies, for the implementation and administration of projects and programs to improve forest health and reduce greenhouse gas emissions.

(2) (A) Until January 1, 2024, the director may authorize advance payments to a nonprofit organization, a local agency, a special district, a private forest landowner, or a Native American tribe from a grant awarded pursuant to this section. No single advance payment shall exceed 25 percent of the total grant award.

(B) (i) The grantee shall expend the funds from the advance payment within six months of receipt, unless the department waives this requirement.

(ii) The grantee shall file an accountability report with the department four months from the date of receiving the funds and every four months thereafter.

(C) (i) The department shall provide a report to the Legislature on or before January 1, 2023, on the outcome of the department's use of advance payments.

(ii) A report submitted pursuant to this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.

(iii) The requirement for submitting a report imposed under clause (i) is inoperative on January 1, 2027, pursuant to Section 10231.5 of the Government Code.

(b) Any project or program described in this section that is funded with moneys from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code, shall comply with all statutory and program requirements applicable to the use of moneys from the fund.

(c) Moneys appropriated to the department for landscape-scale projects shall be allocated as follows:

(1) To subsidize the removal of small diameter material, especially surface fuels and ladder fuels, as well as dead trees, in order to help develop markets for beneficial uses of the material, including, but not limited to, animal bedding, biochar, cross-laminated timber, mulch, oriented strand board, pulp, post, shredding, and veneer products.

(2) For multiple benefit projects, such as tree thinning, carbon sequestration, forest resilience, and improved ecological outcome projects, including, but not limited to, restoring watershed health and function and supporting biodiversity and wildlife adaptation to climate change. The department shall give grant funding priority to landowners who practice uneven aged forest management with a resilient forest of diverse age, size, and species class within the boundaries of the project and whose activities are conducted pursuant to an approved timber harvest plan, nonindustrial timber harvest plan, or working forest management plan. An application for a grant for a project under this subparagraph shall include a description of how the

proposed project will increase average stem diameter and provide other site-specific improvement to forest complexity, as demonstrated by the expansion of the variety of tree age classes and species persisting for a period of at least 50 years. The department shall also give funding priority to landowners who agree to long-term forest management goals prescribed by the department.

(3) For activities on national forest lands to increase tree stand heterogeneity, create forest openings of less than one acre, and increase average tree stand diameter of residual trees. Any grants provided under this subparagraph shall be approved by the department, in collaboration with appropriate state agencies, including the State Air Resources Board.

(d) (1) Division 13 (commencing with Section 21000) does not apply to prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321) if either of the following is satisfied:

(A) The primary role of a state or local agency is providing funding or staffing for those projects.

(B) A state or local agency is undertaking those projects pursuant to the federal Good Neighbor Authority (Public Law 113-79) or a stewardship agreement with the federal government entered into pursuant to Public Law 113-79.

(2) Division 13 (commencing with Section 21000) does not apply to the issuance of a permit or other project approval by a state or local agency for projects described in paragraph (1).

(3) This section does not alter, affect, or in any way diminish the authority of a state or local agency to impose mitigation measures or conditions on projects described in paragraph (1) pursuant to other laws or regulations.

(4) Commencing December 31, 2019, and annually thereafter, the department shall report to the relevant policy committees of the Legislature the number of times the process in this subdivision was used.

(5) (A) This subdivision shall remain operative only if the Secretary of the Natural Resources Agency certifies on or before January 1 of each year that the National Environmental Policy Act of 1969 or other federal laws that affect the management of federal forest lands in California have not been substantially amended on or after August 31, 2018.

(B) Any CEQA exemption established under this subdivision shall continue in effect for those projects conducted under a National Environmental Policy Act record of decision, finding of no significant impact, or notice of exemption or exclusion that was issued prior to the date by which the Secretary determines that the National Environmental Policy Act or federal forest management laws were substantially amended.

(6) This subdivision shall become inoperative on January 1, 2023.

**SEC. 25.** Section 399.20.3 of the Public Utilities Code is amended to read:

**399.20.3.** (a) For purposes of this section, the following definitions apply:

(1) "Bioenergy" has the same meaning as set forth in paragraph (4) of subdivision (f) of Section 399.20.

(2) "Tier 1 high hazard zone" includes areas where wildlife and falling trees threaten power lines, roads, and other evacuation corridors, critical community infrastructure, or other existing structures, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(3) "Tier 2 high hazard zone" includes watersheds that have significant tree mortality combined with community and natural resource assets, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(b) In addition to the requirements of subdivision (f) of Section 399.20, by December 1, 2016, electrical corporations shall collectively procure, through financial commitments of five years, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations prior to June 1, 2013. At least 80 percent of the feedstock of an eligible facility, on an annual basis, shall be a byproduct of sustainable forestry management, which includes removal of dead and dying trees from Tier 1 and Tier 2 high hazard zones and is not that from lands that have been clear cut. At least 60 percent of this feedstock shall be from Tier 1 and Tier 2 high hazard zones.

(c) For the purpose of contracts entered into pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), and commission Resolution E-4805 (October 13, 2016), Tier 1 and Tier 2 high hazard zone fuel or feedstock shall also include biomass fuels removed from fuel reduction operations exempt from timber harvesting plan requirements pursuant to subdivisions (a), (f), (j), and (k) of Section 4584 of the Public Resources Code.

(d) The commission shall require an electrical corporation that has entered into a contract pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016) to allow fuel or feedstock reporting requirements to be based on a monthly or annual basis, and a bioenergy facility providing generation pursuant to that contract shall have the right to opt out of the mandated fuel or feedstock usage levels in any particular month upon providing written notice to the electrical corporation in the month of operation. For months in which a bioenergy facility opts out of the mandated fuel or feedstock usage levels or misses the mandated fuel or feedstock targets, that facility shall be paid the alternate price adopted by the commission in commission Resolution E-4770 for all megawatthours generated during that month. Contracts shall continue in force through the end of the contracted term without creating an event of default for missing mandated fuel or feedstock usage levels and without giving rise to a termination right in favor of the electrical corporation.

(e) (1) For each electrical corporation, the commission shall allocate its proportionate share of the 125 megawatts based on the ratio of the electrical corporation's peak demand to the total statewide peak demand.

(2) Procurement by an electrical corporation of generation capacity pursuant to a contract under the commission's Resolution E-4770 (March 17, 2016) that is in excess of the requirement of that electrical corporation under that resolution shall count towards meeting the electrical corporation's proportionate share allocated pursuant to paragraph (1).

(f) The commission may direct each electrical corporation to develop standard contract terms and conditions that reflect the operational characteristics of the bioenergy projects and to provide a streamlined contracting process or may require the electrical corporations to use the mechanism established pursuant to the commission's Resolution E-4770 (March 17, 2016) to meet the requirements of subdivision (e). The procurement pursuant to the developed standard contract shall occur on an expedited basis due to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(g) A local publicly owned electric utility serving more than 100,000 customers shall procure its proportionate share, based on the ratio of the utility's peak demand to the total statewide peak demand, of 125 megawatts of cumulative rated capacity from existing bioenergy projects described in subdivision (b) subject to terms of at least five years.

(h) The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a nonbypassable basis.

(i) The Procurement Review Group within the commission shall advise the commission on the cost of the generation procured pursuant to this section and its impact on ratepayers.

**SEC. 26.** Section 451.1 is added to the Public Utilities Code, to read:

**451.1.** (a) In an application by an electrical corporation to recover costs and expenses arising from a catastrophic wildfire occurring on or after January 1, 2019, the commission may allow cost recovery if the costs and expenses are just and reasonable, after consideration of the conduct of the utility. In evaluating the reasonableness of the costs and expenses, the commission shall consider the conduct of the electrical corporation and relevant information submitted into the commission record, which may include, but is not limited to, all of the following:

(1) The nature and severity of the conduct of the electrical corporation and its officers, employees, contractors, and other entities with which the electrical corporation forms a contractual relationship, including systemic corporate defects.

(2) Whether the electrical corporation disregarded indicators of wildfire risk.

(3) Whether the electrical corporation failed to design its assets in a reasonable manner.

(4) Whether the electrical corporation failed to operate its assets in a reasonable manner.

(5) Whether the electrical corporation failed to maintain its assets in a reasonable manner.

(6) Whether the electrical corporation's practices to monitor, predict, and anticipate wildfires, and to operate its facilities in a reasonable manner based on information gained from its monitoring and predicting of wildfires, were reasonable.

(7) The extent to which the costs and expenses were in part caused by circumstances beyond the electrical corporation's control.

(8) Whether extreme climate conditions at the location of the wildfire's ignition, including humidity, temperature, or winds occurring during the wildfire, contributed to the fire's ignition or exacerbated the extent of the damages. The electrical corporation shall provide the commission with specific evidence and data demonstrating the impact of climate conditions on the severity of the wildfire.

(9) The electrical corporation's compliance with regulations, laws, commission orders, and its wildfire mitigation plans prepared pursuant to Section 8386, including its history of compliance.

(10) Official findings of state, local, or federal government offices summarizing statutory, regulatory, or ordinance violations by any actor that contributed to the extent of the damages.

(11) Whether the costs and expenses were caused by a single violation or multiple violations of relevant rules.

(12) Other factors the commission finds necessary to evaluate the reasonableness of the costs and expenses, including factors traditionally relied upon by the commission in its decisions.

(b) Notwithstanding Section 451, this section shall direct the commission's evaluation of applications for recovery of costs and expenses arising from a catastrophic wildfire. This section shall not apply to any other applications for cost recovery.

(c) This section shall not affect any civil action, appeal, or other action or proceeding.

**SEC. 27.** Section 451.2 is added to the Public Utilities Code, to read:

**451.2.** (a) In an application by an electrical corporation to recover costs and expenses arising from, or incurred as a result of, a catastrophic wildfire with an ignition date in the 2017 calendar year, the commission shall determine whether those costs and expenses are just and reasonable in accordance with Section 451.

(b) Notwithstanding Section 451, when allocating costs, the commission shall consider the electrical corporation's financial status and determine the maximum amount the corporation can pay without harming ratepayers or materially impacting its ability to provide adequate and safe service. The commission shall ensure that the costs or expenses described in subdivision (a) that are disallowed for recovery in rates assessed for the wildfires, in the aggregate, do not exceed that amount.

(c) An electrical corporation may apply for a financing order pursuant to Article 5.8 (commencing with Section 850) of Chapter 4 for the amount of costs and expenses allocated to the ratepayer as just and reasonable or as disallowed for recovery but exceeding the amount determined pursuant to subdivision (b).

**SEC. 28.** Section 706 of the Public Utilities Code is repealed.

**SEC. 29.** Section 706 is added to the Public Utilities Code, to read:

**706.** (a) For purposes of this section, "compensation" means any annual salary, bonus, benefits, or other consideration of any value, paid to an officer of an electrical corporation or gas corporation.

(b) An electrical corporation or gas corporation shall not recover expenses for compensation from ratepayers. Compensation shall be paid solely by shareholders of the electrical corporation or gas corporation.

**SEC. 30.** Section 748.1 is added to the Public Utilities Code, to read:

**748.1.** An electrical corporation or gas corporation shall not recover through a rate approved by the commission a fine or penalty.

**SEC. 31.** Section 764 is added to the Public Utilities Code, to read:

**764.** (a) An electrical corporation that has a contract for private fire safety and prevention, mitigation, or maintenance services, shall only use those services for the direct defense of utility infrastructure when conducting fire safety and prevention, mitigation, and maintenance activities as determined to be appropriate by the electrical corporation.

(b) An electrical corporation that has a contract for private fire safety and prevention, mitigation, or maintenance services shall make an effort to reduce or eliminate the use of contract private fire safety and prevention, mitigation, and maintenance personnel in favor of employing highly skilled and apprenticed personnel to perform those services in direct defense of utility infrastructure in collaboration with public agency fire departments having jurisdiction.

(c) Nothing in this section prohibits an electrical corporation from contracting with a public agency fire department or relevant jurisdiction for the purposes of providing fire safety and prevention, mitigation, or maintenance services.

**SEC. 32.** Article 5.8 (commencing with Section 850) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read:

#### **Article 5.8. Catastrophic Wildfire Ratepayer Protection Financing**

**850.** (a) If an electrical corporation applies to the commission for recovery of costs and expenses related to a catastrophic wildfire and the commission finds some or all of the costs and expenses to be reasonable pursuant to Section 451.1, or for the amount of costs and expenses determined pursuant to subdivision (c) of Section 451.2, then the electrical corporation may file an

application requesting the commission to issue a financing order to authorize these costs and expenses to be recovered through fixed recovery charges pursuant to this article.

(b) For the purposes of this article, the following terms shall have the following meanings:

(1) "Ancillary agreement" means a bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other similar agreement or arrangement entered into in connection with the issuance of recovery bonds that is designed to promote the credit quality and marketability of the bonds or to mitigate the risk of an increase in interest rates.

(2) "Catastrophic wildfire amounts" means the portion of costs and expenses the commission finds to be just and reasonable pursuant to Section 451.1 or the amount determined pursuant to subdivision (c) of Section 451.2.

(3) "Consumer" means any individual, governmental body, trust, business entity, or nonprofit organization that consumes electricity that has been transmitted or distributed by means of electric transmission or distribution facilities, whether those electric transmission or distribution facilities are owned by the consumer, the electrical corporation, or any other party.

(4) "Financing costs" means the costs to issue, service, repay, or refinance recovery bonds, whether incurred or paid upon issuance of the recovery bonds or over the life of the recovery bonds, if they are approved for recovery by the commission in a financing order. "Financing costs" may include any of the following:

(A) Principal, interest, and redemption premiums that are payable on recovery bonds.

(B) A payment required under an ancillary agreement.

(C) An amount required to fund or replenish reserve accounts or other accounts established under an indenture, ancillary agreement, or other financing document relating to the recovery bonds.

(D) Taxes, franchise fees, or license fees imposed on fixed recovery charges.

(E) Costs related to issuing and servicing recovery bonds or the application for a financing order, including, without limitation, servicing fees and expenses, trustee fees and expenses, legal fees and expenses, accounting fees, administrative fees, underwriting and placement fees, financial advisory fees, original issue discount, capitalized interest, rating agency fees, and any other related costs that are approved for recovery in the financing order.

(F) Other costs as specifically authorized by a financing order.

(5) "Financing entity" means the electrical corporation or any subsidiary or affiliate of the electrical corporation that is authorized by the commission to issue recovery bonds or acquire recovery property, or both.

(6) "Financing order" means an order of the commission adopted in accordance with this article, which shall include, without limitation, a procedure to require the expeditious approval by the commission of periodic adjustments to fixed recovery charges and to any associated fixed recovery tax amounts included in that financing order to ensure recovery of all recovery costs and the costs associated with the proposed recovery, financing, or refinancing thereof, including the costs of servicing and retiring the recovery bonds contemplated by the financing order.

(7) "Fixed recovery charges" means those nonbypassable rates and other charges, including, but not limited to, distribution, connection, disconnection, and termination rates and charges, that are authorized by the commission in a financing order to recover both of the following:

(A) Recovery costs specified in the financing order.

(B) The costs of recovering, financing, or refinancing those recovery costs through a plan approved by the commission in the financing order, including the costs of servicing and retiring recovery bonds.

(8) "Fixed recovery tax amounts" means those nonbypassable rates and other charges, including, but not limited to, distribution, connection, disconnection, and termination rates and charges, that are needed to recover federal and State of California income and franchise taxes associated with fixed recovery charges authorized by the commission in a financing order, but are not approved as financing costs financed from proceeds of recovery bonds.

(9) "Recovery bonds" means bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture or other agreement of a financing entity, the proceeds of which are used, directly or indirectly, to recover, finance, or refinance recovery costs, and that are directly or indirectly secured by, or payable from, recovery property.

(10) "Recovery costs" means any of the following:

(A) The catastrophic wildfire amounts authorized by the commission in a financing order for recovery.

(B) Federal and State of California income and franchise taxes associated with recovery of the amounts pursuant to subparagraph (A).

(C) Financing costs.

(D) Professional fees, consultant fees, redemption premiums, tender premiums and other costs incurred by the electrical corporation in using proceeds of recovery bonds to acquire outstanding securities of the electrical corporation, as authorized by the commission in a financing order.

(11) (A) "Recovery property" means the property right created pursuant to this article, including, without limitation, the right, title, and interest of the electrical corporation or its transferee:

(i) In and to the fixed recovery charges established pursuant to a financing order, including all rights to obtain adjustments to the fixed recovery charges in accordance with Section 850.1 and the financing order.

(ii) To be paid the amount that is determined in a financing order to be the amount that the electrical corporation or its transferee is lawfully entitled to receive pursuant to the provisions of this article and the proceeds thereof, and in and to all revenues, collections, claims, payments, moneys, or proceeds of or arising from the fixed recovery charges that are the subject of a financing order.

(B) "Recovery property" shall not include a right to be paid fixed recovery tax amounts.

(C) "Recovery property" shall constitute a current property right, notwithstanding the fact that the value of the property right will depend on consumers using electricity or, in those instances where consumers are customers of the electrical corporation, the electrical corporation performing certain services.

(12) "Service territory" means the geographical area that the electrical corporation provides with electric distribution service.

(13) "True-up adjustment" means an adjustment to the fixed recovery charges as they appear on customer bills that is necessary to correct for any overcollection or undercollection of the fixed recovery charges authorized by a financing order and to otherwise ensure the timely and complete payment and recovery of recovery costs over the authorized repayment term.

**850.1.** (a) (1) This section applies only if an electrical corporation files for recovery of the amount of costs and expenses pursuant to Section 451.1 or subdivision (c) of Section 451.2 and the commission finds some or all of those costs and expenses to be just and reasonable pursuant to Section 451.1 or the commission allocates to the ratepayers some or all of those costs and expenses pursuant to subdivision (c) of Section 451.2.

(2) The commission may issue a financing order to allow recovery through fixed recovery charges, which would therefore constitute recovery property under this article, and order that any portion of the electrical corporation's federal and State of California income and franchise taxes associated with those fixed recovery charges and not financed from proceeds of recovery bonds may be recovered through fixed recovery tax amounts.

(3) (A) Following application by an electrical corporation, the commission shall issue a financing order if the commission determines that the following conditions are satisfied:

(i) The recovery cost to be reimbursed from the recovery bonds have been found to be just and reasonable pursuant to Section 451.1 or are allocated to the ratepayers pursuant to subdivision (c) of Section 451.2.

(ii) The issuance of the recovery bonds, including all material terms and conditions of the recovery bonds, including, without limitation, interest rates, rating, amortization redemption, and maturity, and the imposition and collection of fixed recovery charges as set forth in an application satisfy all of the following conditions:

(I) They are just and reasonable.

(II) They are consistent with the public interest.

(III) The recovery of recovery costs through the designation of the fixed recovery charges and any associated fixed recovery tax amounts, and the issuance of recovery bonds in connection with the fixed recovery charges, would reduce, to the maximum extent possible, the rates on a present value basis that consumers within the electrical corporation's service territory would pay as compared to the use of traditional utility financing mechanisms, which

shall be calculated using the electrical corporation's corporate debt and equity in the ratio approved by the commission at the time of the financing order.

(B) The electrical corporation may request the determination specified in subparagraph (A) by the commission in a separate proceeding or in an existing proceeding or both. If the commission makes the determination specified in subparagraph (A), the commission shall establish, as part of the financing order, a procedure for the electrical corporation to submit applications from time to time to request the issuance of additional financing orders designating fixed recovery charges and any associated fixed recovery tax amounts as recoverable. The electrical corporation may submit an application with respect to recovery costs that an electrical corporation (i) has paid, (ii) has an existing legal obligation to pay, or (iii) would be obligated to pay pursuant to an executed settlement agreement. The commission shall, within 180 days of the filing of that application, issue a financing order, which may take the form of a resolution, if the commission determines that the amounts identified in the application are recovery costs.

(4) Fixed recovery charges and any associated fixed recovery tax amounts shall be imposed only on existing and future consumers in the service territory. Consumers within the service territory shall continue to pay fixed recovery charges and any associated fixed recovery tax amounts until the recovery bonds and associated financing costs are paid in full by the financing entity.

(5) An electrical corporation may exercise the same rights and remedies under its tariff and applicable law and regulation based upon a customer's nonpayment of fixed recovery charges and any associated fixed recovery tax as it could for a customer's failure to pay any other charge payable to that electrical corporation.

(b) The commission may establish in a financing order an effective mechanism that ensures recovery of recovery costs through nonbypassable fixed recovery charges and any associated fixed recovery tax amounts from existing and future consumers in the service territory, and those consumers shall be required to pay those charges until the recovery bonds and all associated financing costs are paid in full by the financing entity, at which time those charges shall be terminated. Fixed recovery charges shall be irrevocable, notwithstanding the true-up adjustment pursuant to subdivision (g).

(c) Recovery bonds authorized by the commission's financing orders may be issued in one or more series on or before December 31, 2035.

(d) The commission may issue financing orders in accordance with this article to facilitate the recovery, financing, or refinancing of recovery costs. A financing order may be adopted only upon the application of the electrical corporation and shall become effective in accordance with its terms only after the electrical corporation files with the commission the electrical corporation's written consent to all terms and conditions of the financing order. A financing order may specify how amounts collected from a consumer shall be allocated between fixed recovery charges, any associated fixed recovery tax amounts, and other charges.

(e) Notwithstanding Section 455.5 or 1708, or any other law, and except as otherwise provided in subdivision (g), with respect to recovery property that has been made the basis for the issuance of recovery bonds and with respect to any associated fixed recovery tax amounts, the financing order, the fixed recovery charges, and any associated fixed recovery tax amounts shall be irrevocable. The commission shall not, either by rescinding, altering, or amending the financing order or otherwise, revalue or revise for ratemaking purposes the recovery costs or the costs of recovering, financing, or refinancing the recovery costs, in any way reduce or impair the value of recovery property or of the right to receive any associated fixed recovery tax amounts either directly or indirectly by taking fixed recovery charges or any associated fixed recovery tax amounts into account when setting other rates for the electrical corporation or when setting charges for the Department of Water Resources. The amount of revenues shall not be subject to reduction, impairment, postponement, or termination. The State of California does hereby pledge and agree with the electrical corporation, owners of recovery property, financing entities, and holders of recovery bonds that the state shall neither limit nor alter, except as otherwise provided with respect to the true-up adjustment of the fixed recovery charges pursuant to subdivision (i), the fixed recovery charges, any associated fixed recovery tax amounts, recovery property, financing orders, or any rights under a financing order until the recovery bonds, together with the interest on the recovery bonds and associated financing costs, are fully paid and discharged, and any associated fixed recovery tax amounts have been satisfied or, in the alternative, have been refinanced through an additional issue of recovery bonds, provided that nothing contained in this section shall preclude the limitation or alteration if and when adequate provision shall be made by law for the protection of the electrical corporation and of owners and holders of the recovery bonds. The financing entity is authorized to include this pledge and undertaking for the state in these recovery bonds. When setting other rates for the electrical corporation, nothing in this subdivision shall prevent the commission from taking into account either of the following:

(1) Any collection of fixed recovery charges in excess of amounts actually required to pay recovery costs financed or refinanced by recovery bonds.

(2) Any collection of fixed recovery tax amounts in excess of amounts actually required to pay federal and State of California income and franchise taxes associated with fixed recovery charges, provided that this would not result in a recharacterization of

the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following:

(A) Treating the recovery bonds as debt of the electrical corporation or its affiliates for federal income tax purposes.

(B) Treating the transfer of the recovery property by the electrical corporation as a true sale for bankruptcy purposes.

(f) (1) Neither financing orders nor recovery bonds issued under this article shall constitute a debt or liability of the state or of any political subdivision thereof, nor shall they constitute a pledge of the full faith and credit of the state or any of its political subdivisions, but are payable solely from the funds provided therefor under this article and shall be consistent with Sections 1 and 18 of Article XVI of the California Constitution. All recovery bonds shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond."

(2) The issuance of recovery bonds under this article shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

(g) The commission shall establish procedures for the expeditious processing of an application for a financing order, which shall provide for the approval or disapproval of the application within 120 days of the application. Any fixed recovery charge authorized by a financing order shall appear on consumer bills. The commission shall, in any financing order, provide for a procedure for periodic true-up adjustments to fixed recovery charges, which shall be made at least annually and may be made more frequently. The electrical corporation shall file an application with the commission to implement any true-up adjustment.

(h) Fixed recovery charges are recovery property when, and to the extent that, a financing order authorizing the fixed recovery charges has become effective in accordance with this article, and the recovery property shall thereafter continuously exist as property for all purposes, and all of the rights and privileges relating to that property accorded by this article shall continuously exist for the period and to the extent provided in the financing order, but in any event until the recovery bonds are paid in full, including all principal, premiums, if any, and interest with respect to the recovery bonds, and all associated financing costs are paid in full. A financing order may provide that the creation of recovery property shall be simultaneous with the sale of the recovery property to a transferee or assignee as provided in the application of the pledge of the recovery property to secure the recovery bonds.

(i) Recovery costs shall not be imposed upon customers participating in the California Alternative Rates for Energy or Family Electric Rate Assistance programs discount pursuant to Section 739.1.

(j) This article and any financing order made pursuant to this article do not amend, reduce, modify, or otherwise affect the right of the Department of Water Resources to recover its revenue requirements and to receive the charges that it is to recover and receive pursuant to Division 27 (commencing with Section 80000) of the Water Code, or pursuant to any agreement entered into by the commission and the Department of Water Resources pursuant to that division.

**850.2.** (a) The financing entity may issue recovery bonds upon approval by the commission in a financing order. Recovery bonds shall be nonrecourse to the credit or any assets of the electrical corporation, other than the recovery property as specified in that financing order.

(b) The electrical corporation may sell and assign all or portions of its interest in recovery property to one or more financing entities that make that recovery property the basis for issuance of recovery bonds, to the extent approved in a financing order. The electrical corporation or financing entity may pledge recovery property as collateral, directly or indirectly, for recovery bonds to the extent approved in the pertinent financing orders providing for a security interest in the recovery property, in the manner set forth in Section 850.3. In addition, recovery property may be sold or assigned by either of the following: (1) the financing entity or a trustee for the holders of recovery bonds or the holders of an ancillary agreement in connection with the exercise of remedies upon a default, or (2) any person acquiring the recovery property after a sale or assignment pursuant to this article.

(c) To the extent that any interest in recovery property is sold, assigned, or is pledged as collateral pursuant to subdivision (b), the commission shall authorize the electrical corporation to contract with the financing entity that it will continue to operate its system to provide service to consumers within its service territory, will collect amounts in respect of the fixed recovery charges for the benefit and account of the financing entity, and will account for and remit these amounts to or for the account of the financing entity. Contracting with the financing entity in accordance with that authorization shall not impair or negate the characterization of the sale, assignment, or pledge as an absolute transfer, a true sale, or a security interest, as applicable. To the extent that billing, collection, and other related services with respect to the provision of electric service are provided to a consumer by any person or entity other than the electrical corporation in whose service territory the consumer is located, that person or entity shall collect the fixed recovery charges and any associated fixed recovery tax amounts from the consumer for the benefit and account of the electrical corporation or financing entity with the associated revenues remitted solely for the benefit and repayment of the recovery bonds and associated financing costs as a condition to the provision of electric service to that consumer. Each financing



order shall impose terms and conditions, consistent with the purposes and objectives of this article, on any person or entity responsible for billing, collection, and other related services, including, without limitation, collection of the fixed recovery charges and any associated fixed recovery tax amounts, that are the subject of the financing order.

(d) Recovery property that is specified in a financing order shall constitute an existing, present property right, notwithstanding the fact that the imposition and collection of fixed recovery charges depend on the electrical corporation continuing to provide electricity service or continuing to perform its servicing functions relating to the collection of fixed recovery charges or on the level of future electricity consumption. Recovery property shall exist whether or not the fixed recovery charges have been billed, have accrued, or have been collected and notwithstanding the fact that the value for a security interest in the recovery property, or amount of the recovery property, is dependent on the future provision of service to consumers. All recovery property specified in a financing order shall continue to exist until the recovery bonds issued pursuant to a financing order and all associated financing costs are paid in full.

(e) Recovery property, fixed recovery charges, and the interests of an assignee, bondholder or financing entity, or any pledgee in recovery property and fixed recovery charges are not subject to setoff, counterclaim, surcharge, recoupment, or defense by the electrical corporation or any other person or in connection with the bankruptcy, reorganization, or other insolvency proceeding of the electrical corporation, any affiliate of the electrical corporation, or any other entity.

(f) Notwithstanding Section 1708 or any other law, any requirement under this article or a financing order that the commission take action with respect to the subject matter of a financing order shall be binding upon the commission, as it may be constituted from time to time, and any successor agency exercising functions similar to the commission, and the commission shall have no authority to rescind, alter, or amend that requirement in a financing order. The approval by the commission in a financing order of the issuance by the electrical corporation or a financing entity of recovery bonds shall include the approvals, if any, as may be required by Article 5 (commencing with Section 816) and Section 701.5. Nothing in Section 701.5 shall be construed to prohibit the issuance of recovery bonds upon the terms and conditions as may be approved by the commission in a financing order. Section 851 is not applicable to the transfer or pledge of recovery property, the issuance of recovery bonds, or related transactions approved in a financing order.

**850.3.** (a) A security interest in recovery property is valid, is enforceable against the pledgor and third parties, is subject to the rights of any third parties holding security interests in the recovery property perfected in the manner described in this section, and attaches when all of the following have taken place:

- (1) The commission has issued a financing order authorizing the fixed recovery charges included in the recovery property.
- (2) Value has been given by the pledgees of the recovery property.
- (3) The pledgor has signed a security agreement covering the recovery property.

(b) A valid and enforceable security interest in recovery property is perfected when it has attached and when a financing statement has been filed in accordance with Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code naming the pledgor of the recovery property as "debtor" and identifying the recovery property. Any description of the recovery property shall be sufficient if it refers to the financing order creating the recovery property. A copy of the financing statement shall be filed with the commission by the electrical corporation that is the pledgor or transferor of the recovery property, and the commission may require the electrical corporation to make other filings with respect to the security interest in accordance with procedures it may establish, provided that the filings shall not affect the perfection of the security interest.

(c) A perfected security interest in recovery property is a continuously perfected security interest in all recovery property revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting security interests shall rank according to priority in time of perfection. Recovery property shall constitute property for all purposes, including for contracts securing recovery bonds, whether or not the recovery property revenues and proceeds have accrued.

(d) Subject to the terms of the security agreement covering the recovery property and the rights of any third parties holding security interests in the recovery property perfected in the manner described in this section, the validity and relative priority of a security interest created under this section is not defeated or adversely affected by the commingling of revenues arising with respect to the recovery property with other funds of the electrical corporation that is the pledgor or transferor of the recovery property, or by any security interest in a deposit account of that electrical corporation perfected under Division 9 (commencing with Section 9101) of the Commercial Code into which the revenues are deposited. Subject to the terms of the security agreement, upon compliance with the requirements of paragraph (1) of subdivision (b) of Section 9312 of the Commercial Code, the pledgees of the recovery property shall have a perfected security interest in all cash and deposit accounts of the electrical corporation in which recovery property revenues have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the recovery property revenues received by the electrical corporation

within 12 months before (1) any default under the security agreement or (2) the institution of insolvency proceedings by or against the electrical corporation, less payments from the revenues to the pledgees during that 12-month period.

(e) If default occurs under the security agreement covering the recovery property, the pledgees of the recovery property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default under Division 9 (commencing with Section 9101) of the Commercial Code, and are entitled to foreclose or otherwise enforce their security interest in the recovery property, subject to the rights of any third parties holding prior security interests in the recovery property perfected in the manner provided in this section. In addition, the commission may require in the financing order creating the recovery property that, in the event of default by the electrical corporation in payment of recovery property revenues, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under Section 850.4, of the recovery property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and payment to the pledgees or transferees of recovery property revenues. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the recovery property. Any surplus in excess of amounts necessary to pay principal, premiums, if any, interest, costs, and arrearages on the recovery bonds, and associated financing costs arising under the security agreement, shall be remitted to the debtor or to the pledgor or transferor.

(f) Section 5451 of the Government Code shall not apply to any pledge of recovery property by a financing entity. Sections 9204 and 9205 of the Commercial Code apply to a pledge of recovery property by the electrical corporation, an affiliate of the electrical corporation, or a financing entity.

(g) This section sets forth the terms by which a consensual security interest shall be created and perfected in the recovery property. Unless otherwise ordered by the commission with respect to any series of recovery bonds on or prior to the issuance of the series, there shall exist a statutory lien as provided in this subdivision. Upon the effective date of the financing order, there shall exist a first priority lien on all recovery property then existing or thereafter arising pursuant to the terms of the financing order. This lien shall arise by operation of this section automatically without any action on the part of the electrical corporation, any affiliate thereof, the financing entity, or any other person. This lien shall secure all obligations, then existing or subsequently arising, to the holders of the recovery bonds issued pursuant to the financing order, the trustee or representative for the holders, and any other entity specified in the financing order. The persons for whose benefit this lien is established shall, upon the occurrence of any defaults specified in the financing order, have all rights and remedies of a secured party upon default under Division 9 (commencing with Section 9101) of the Commercial Code, and are entitled to foreclose or otherwise enforce this statutory lien in the recovery property. This lien attaches to the recovery property regardless of who owns, or is subsequently determined to own, the recovery property, including the electrical corporation, any affiliate thereof, the financing entity, or any other person. This lien shall be valid, perfected, and enforceable against the owner of the recovery property and all third parties upon the effectiveness of the financing order without any further public notice; provided, however, that any person may, but is not required to, file a financing statement in accordance with subdivision (b). Financing statements so filed may be "protective filings" and are not evidence of the ownership of the recovery property.

A perfected statutory lien in recovery property is a continuously perfected lien in all recovery property revenues and proceeds, whether or not the revenues or proceeds have accrued. Conflicting liens shall rank according to priority in time of perfection. Recovery property shall constitute property for all purposes, including for contracts securing recovery bonds, whether or not the recovery property revenues and proceeds have accrued.

In addition, the commission may require, in the financing order creating the recovery property, that, in the event of default by the electrical corporation in the payment of recovery property revenues, the commission and any successor thereto, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of recovery property revenues. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor. Any surplus in excess of amounts necessary to pay principal, premiums, if any, interest, costs, and arrearages on the recovery bonds, and other costs arising in connection with the documents governing the recovery bonds, shall be remitted to the debtor.

**850.4.** (a) A transfer of recovery property by the electrical corporation to an affiliate or to a financing entity, or by an affiliate of the electrical corporation or a financing entity to another financing entity, which the parties in the governing documentation have expressly stated to be a sale or other absolute transfer, in a transaction approved in a financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest, as in a true sale, and not as a pledge or other financing, of the recovery property, other than for federal and state income and franchise tax purposes.

(b) The characterization of the sale, assignment, or transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the purchaser shall not be affected or impaired by, among other things, the occurrence of any of the following:

(1) Commingling of fixed recovery charge revenues with other amounts.

(2) The retention by the seller of either of the following:

(A) A partial or residual interest, including an equity interest, in the financing entity or the recovery property, whether direct or indirect, subordinate or otherwise.

(B) The right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of fixed recovery charges.

(3) Any recourse that the purchaser may have against the seller.

(4) Any indemnification rights, obligations, or repurchase rights made or provided by the seller.

(5) The obligation of the seller to collect fixed recovery charges on behalf of an assignee.

(6) The treatment of the sale, assignment, or transfer for tax, financial reporting, or other purposes.

(7) Any true-up adjustment of the fixed recovery charges as provided in the financing order.

(c) A transfer of recovery property shall be deemed perfected against third persons when both of the following occur:

(1) The commission issues the financing order authorizing the fixed recovery charges included in the recovery property.

(2) An assignment of the recovery property in writing has been executed and delivered to the transferee.

(d) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement in accordance with Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code naming the assignor of the recovery property as debtor and identifying the recovery property has priority. Any description of the recovery property shall be sufficient if it refers to the financing order creating the recovery property. A copy of the financing statement shall be filed by the assignee with the commission, and the commission may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures it may establish, but these filings shall not affect the perfection of the transfer.

**850.5.** Any successor to the electrical corporation, whether pursuant to any bankruptcy, reorganization, or other insolvency proceeding, or pursuant to any merger, sale, or transfer, by operation of law, or otherwise, shall perform and satisfy all obligations of the electrical corporation pursuant to this article in the same manner and to the same extent as the electrical corporation, including, but not limited to, collecting and paying to the holders of recovery bonds, or their representatives, or the applicable financing entity revenues arising with respect to the recovery property sold to the applicable financing entity or pledged to secure recovery bonds. Any successor to the electrical corporation is entitled to receive any fixed recovery tax amounts otherwise payable to the electrical corporation.

**850.6.** The authority of the commission to issue financing orders pursuant to Section 850.1 shall expire on December 31, 2035. The expiration of the authority shall have no effect upon financing orders adopted by the commission pursuant to this article or any recovery property arising therefrom, or upon the charges authorized to be levied thereunder, or the rights, interests, and obligations of the electrical corporation or a financing entity or holders of recovery bonds pursuant to the financing order, or the authority of the commission to monitor, supervise, or take further action with respect to the order in accordance with the terms of this article and of the order.

**850.7.** (a) Notwithstanding subdivision (e) of Section 850.1, if, subsequent to the issuance of a financing order, an electrical corporation receives additional insurance proceeds, tax benefits, or other amounts that reimburse the electrical corporation for costs associated with catastrophic wildfire amounts included in the recovery costs addressed in that financing order, the electrical corporation shall credit customers, in a manner to be determined by the commission, with the net after tax amounts of those reimbursements, but the commission may not adjust, amend, or modify the catastrophic wildfire amounts, fixed recovery charges, the fixed recovery tax amounts, the financing order, recovery costs, the recovery property, or the recovery bonds.

(b) Nothing in this section shall be construed to permit setoff, counterclaim, surcharge, recoupment, or defense by the electrical corporation or any other person, or in connection with the bankruptcy, reorganization, or other insolvency proceeding of the electrical corporation, any affiliate of the electrical corporation, or any other entity, against the recovery property, the fixed recovery charges, or the interests of an assignee, bondholder, or financing entity, or any pledgee in recovery property or fixed recovery charges.

**850.8.** This article shall not affect any civil action or proceeding.

**SEC. 33.** Section 854 of the Public Utilities Code is amended to read:

**854.** (a) No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the commission. The commission may establish by order or rule the definitions of what constitute merger, acquisition, or control activities which are subject to this section. Any merger, acquisition, or control without that prior authorization shall be void and of no effect. No public utility organized and doing business under the laws of this state, and no subsidiary or affiliate of, or corporation holding a controlling interest in a public utility, shall aid or abet any violation of this section.

(b) Before authorizing the merger, acquisition, or control of any electrical, gas, or telephone corporation organized and doing business in this state, where any of the utilities that are parties to the proposed transaction has gross annual California revenues exceeding five hundred million dollars (\$500,000,000), the commission shall find that the proposal does all of the following:

(1) Provides short-term and long-term economic benefits to ratepayers.

(2) Equitably allocates, where the commission has ratemaking authority, the total short-term and long-term forecasted economic benefits, as determined by the commission, of the proposed merger, acquisition, or control, between shareholders and ratepayers. Ratepayers shall receive not less than 50 percent of those benefits.

(3) Not adversely affect competition. In making this finding, the commission shall request an advisory opinion from the Attorney General regarding whether competition will be adversely affected and what mitigation measures could be adopted to avoid this result.

(4) For an electric or gas utility, ensures the utility will have an adequate workforce to maintain the safe and reliable operation of the utility assets.

(c) Before authorizing the merger, acquisition, or control of any electrical, gas, or telephone corporation organized and doing business in this state, where any of the entities that are parties to the proposed transaction has gross annual California revenues exceeding five hundred million dollars (\$500,000,000), the commission shall consider each of the criteria listed in paragraphs (1) to (8), inclusive, and find, on balance, that the merger, acquisition, or control proposal is in the public interest.

(1) Maintain or improve the financial condition of the resulting public utility doing business in the state.

(2) Maintain or improve the quality of service to public utility ratepayers in the state.

(3) Maintain or improve the quality of management of the resulting public utility doing business in the state.

(4) Be fair and reasonable to affected public utility employees, including both union and nonunion employees.

(5) Be fair and reasonable to the majority of all affected public utility shareholders.

(6) Be beneficial on an overall basis to state and local economies, and to the communities in the area served by the resulting public utility.

(7) Preserve the jurisdiction of the commission and the capacity of the commission to effectively regulate and audit public utility operations in the state.

(8) Provide mitigation measures to prevent significant adverse consequences which may result.

(d) When reviewing a merger, acquisition, or control proposal, the commission shall consider reasonable options to the proposal recommended by other parties, including no new merger, acquisition, or control, to determine whether comparable short-term and long-term economic savings can be achieved through other means while avoiding the possible adverse consequences of the proposal.

(e) The person or corporation seeking acquisition or control of a public utility organized and doing business in this state shall have, before the commission, the burden of proving by a preponderance of the evidence that the requirements of subdivisions (b) and (c) are met.

(f) In determining whether an acquiring utility has gross annual revenues exceeding the amount specified in subdivisions (b) and (c), the revenues of that utility's affiliates shall not be considered unless the affiliate was utilized for the purpose of effecting the merger, acquisition, or control.

(g) Paragraphs (1) and (2) of subdivision (b) shall not apply to the formation of a holding company.

(h) For purposes of paragraphs (1) and (2) of subdivision (b), the legislature does not intend to include acquisitions or changes in control that are mandated by either the commission or the Legislature as a result of, or in response to any electric industry

restructuring. However, the value of an acquisition or change in control may be used by the commission in determining the costs or benefits attributable to any electric industry restructuring and for allocating those costs or benefits for collection in rates.

**SEC. 34.** Section 854.2 is added to the Public Utilities Code, to read:

**854.2.** (a) The Legislature finds and declares all of the following:

(1) California's electric and gas utilities provide essential services to California residents and businesses, which are necessary to maintaining the vitality of California's economy.

(2) Consistent with Sections 913.4, 961, and 977, an adequately sized workforce of experienced electric and gas utility employees with the appropriate training and skills, as well as the knowledge of an electric or gas utility's facilities and equipment, is essential to the safe, efficient, and uninterrupted provision of electrical and gas services. Safe and reliable electric and gas utility service is vital to public health, public safety, air quality, and reducing emissions of greenhouse gases.

(3) Changes in the ownership or control of an electrical corporation or gas corporation may create uncertainty regarding the safe, efficient, and continuous provision of safe and reliable electrical and gas service to California consumers, leading to economic instability.

(4) Mass displacement of electrical corporation or gas corporation workers as a result of a change in the ownership or control of an electrical corporation or gas corporation causes excessive reliance on the unemployment insurance system, and public social services and health programs, increasing costs to these vital governmental programs and placing a significant burden on the state and California taxpayers.

(5) The state has a compelling interest in ensuring that when there is a change in the ownership or control of an electrical corporation or gas corporation, the new employer maintains a qualified and knowledgeable workforce with the ability to ensure safe, efficient, reliable, and continuous service to California consumers and communities.

(b) For purposes of this section, the following definitions shall apply:

(1) "Change of control" means any event that triggers the application of Section 851 or 854, any material change in ownership of the electric corporation or gas corporation, its parent company or its holding company, or any filing seeking bankruptcy protection.

(2) (A) "Covered employee" means an individual who has been employed by an electrical corporation or gas corporation for at least 90 days immediately before a change of control affecting that individual's principal place of employment. A change of control affects a covered employee's principal place of employment where the change of control results in the predecessor employer transferring control of the place of employment to the successor employer.

(B) "Covered employee" does not include any of the following:

(i) A managerial, supervisory, or confidential employee.

(ii) A temporary employee.

(iii) A part-time employee who has worked less than 20 hours per week for the predecessor employer for at least 90 days immediately before the change of control.

(3) "Person" means a corporation as defined in Section 204, a person as defined in Section 205, any other individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

(4) "Predecessor employer" means the person who controls the electric or gas utility before the change of control.

(5) "Principal place of employment" of an employee means the office or other facility of the electrical corporation or gas corporation where the employee is principally assigned to work by the predecessor employer.

(6) "Successor employer" means the person who controls the electrical corporation or gas corporation after the change of control.

(7) "Total compensation" means the combined value of the covered employee's wages and benefits immediately before the change of control. Total compensation may be paid entirely as wages or in any combination of wages and fringe benefits, to be determined by the successor employer. Total compensation includes, but is not necessarily limited to, both of the following amounts:

(A) The covered employee's hourly wage rate or the per diem value of the covered employee's monthly salary.

(B) Employer payments toward the covered employee's health and welfare and pension benefits. Employer payments toward health and welfare and pension benefits shall include only those payments that are recognized as employer payments under paragraphs (1) and (2) of subdivision (b) of Section 1773.1 of the Labor Code.

(8) "Transition period" means a period of 180 days immediately following the effective date of a change of control.

(c) (1) Except as otherwise provided in this section, a successor employer shall retain all covered employees for at least the transition period following a change of control, unless the commission approves a reduction in the workforce pursuant to subdivision (i). During the transition period, the successor employer shall not reduce the total compensation of a covered employee.

(2) During the transition period, a successor employer shall not terminate a covered employee without cause.

(3) A successor employer and a labor organization representing covered employees may, in a collective bargaining agreement, provide that the agreement supersedes the requirements of this section.

(d) No later than 15 days before the effective date of a change of control, the predecessor employer shall cause to be posted public notice of the change of control at each principal place of employment of any covered employee. The notice shall include the name of the predecessor employer and its contact information, the name of the successor employer and its contact information, and the effective date of the change of control. The notice shall be posted in a conspicuous place in a manner that is readily viewed by covered employees. No later than 15 days before the effective date of a change of control, the predecessor employer shall also cause the notice to be sent to any labor organization that represents covered employees.

(e) This part shall not be construed to limit the right of covered employees to bring legal action for wrongful termination.

(f) The rights and remedies provided pursuant to this section are in addition to, and are not intended to supplant, any existing rights or remedies.

(g) No later than 15 days before the effective date of a change of control, a predecessor employer shall provide to the successor employer the name, address, date of hire, total compensation, and classification of each covered employee.

(h) A successor employer shall retain the following written or electronic records for at least three years:

(1) The list provided to the successor employer pursuant to subdivision (g).

(2) Any offer of employment made to a covered employee.

(3) Any termination of a covered employee during a transition period, including the reasons for the termination.

(4) Any written evaluation of a covered employee.

(i) For two years after the transition period, a successor employer may reduce the total number of employees who would have qualified as covered employees during the 90-day period immediately before a change of control only if approved by the commission. The commission shall not authorize a successor employer to reduce the number of those employees except on a showing by a preponderance of the evidence of all of the following:

(1) The electrical corporation or gas corporation has conducted a study of the nature and scope of the work performed by those employees proposed to be eliminated and the study shows that neither the nature nor the scope of this work is necessary to providing safe and reliable utility service.

(2) There will be no reduction in the ability of those employees to prevent damage from or to respond to an emergency such as a wildfire, storm, flood, mudslide, or earthquake, or to gas leaks, electric outages, interconnection requests, work requested by others, locate and mark requests, or other utility services.

(3) There will be no reduction in the ability of the electrical corporation or gas corporation to respond to mutual aid requests of other utilities.

(j) A successor employer may terminate an employee with cause consistent with any applicable selective bargaining agreement during the period specified in subdivision (i).

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**SEC. 35.** Section 959 of the Public Utilities Code is amended to read:

**959.** Each gas corporation shall demonstrate to the satisfaction of the commission, in its general rate case proceeding, that the requested revenue requirements will be sufficient to enable the gas corporation to fund those projects and activities necessary to maintain safe and reliable service and to meet federal and state safety requirements applicable to its gas plant, in a cost-effective manner.

**SEC. 36.** Section 1731 of the Public Utilities Code is amended to read:

**1731.** (a) The commission shall set an effective date when issuing an order or decision. The commission may set the effective date of an order or decision before the date of issuance of the order or decision.

(b) (1) After an order or decision has been made by the commission, a party to the action or proceeding, or a stockholder, bondholder, or other party pecuniarily interested in the public utility affected may apply for a rehearing in respect to matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. A cause of action arising out of any order or decision of the commission shall not accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 30 days after the date of issuance or within 10 days after the date of issuance in the case of an order issued pursuant to either Article 5 (commencing with Section 816) or Article 6 (commencing with Section 851) of Chapter 4 relating to security transactions and the transfer or encumbrance of utility property.

(2) The commission shall notify the parties of the issuance of an order or decision by either mail or electronic transmission. Notification of the parties may be accomplished by one of the following methods:

(A) Mailing the order or decision to the parties to the action or proceeding.

(B) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting an electronic copy of the official version of the order or decision to the party if the party has provided an electronic mail address to the commission.

(C) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting a link to an Internet Web site where the official version of the order or decision is readily available to the party if the party has provided an electronic mail address to the commission.

(3) For the purposes of this article, "date of issuance" means the mailing or electronic transmission date that is stamped on the official version of the order or decision.

(c) A cause of action arising out of an order or decision of the commission construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the department's revenue requirements, or the establishment or implementation of bond or power charges necessary to recover those revenue requirements, or (2) in the sole determination of the Department of Water Resources, the expedited review of order or decision of the commission is necessary or desirable, for the maintenance of any credit ratings on any bonds or notes of the department issued pursuant to Division 27 (commencing with Section 80000) of the Water Code or for the department to meet its obligations with respect to any bonds or notes pursuant to that division, shall not accrue in any court to any corporation or person unless the corporation or person has filed an application with the commission for a rehearing within 10 days after the date of issuance of the order or decision. The Department of Water Resources shall notify the commission of any determination pursuant to paragraph (2) of this subdivision before the issuance by the commission of any order or decision construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session. The commission shall issue its decision and order on rehearing within 210 days after the filing of the application.

(d) A cause of action arising out of an order or decision of the commission construing, applying, or implementing the provisions of Article 5.7 (commencing with Section 849) or Article 5.8 (commencing with Section 850) of Chapter 4 shall not accrue in any court to any entity or person unless the entity or person has filed an application to the commission for a rehearing within 10 days after the date of issuance of the order or decision. The commission shall issue its decision and order on rehearing within 210 days after the filing of that application.

**SEC. 37.** Section 2107 of the Public Utilities Code is amended to read:

**2107.** Any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or that fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars (\$500), nor more than one hundred thousand dollars (\$100,000), for each offense.

**SEC. 38.** Section 8386 of the Public Utilities Code is amended to read:

**8386.** (a) Each electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment.

(b) Each electrical corporation shall annually prepare and submit a wildfire mitigation plan to the commission for review and approval, according to a schedule established by the commission, which may allow for the staggering of compliance periods for each electrical corporation. The Department of Forestry and Fire Protection shall consult with the commission on the review of each wildfire mitigation plan. Prior to approval, the commission may require modifications of the plans. Following approval, the commission shall oversee compliance with the plans pursuant to subdivision (h).

(c) The wildfire mitigation plan shall include:

(1) An accounting of the responsibilities of persons responsible for executing the plan.

(2) The objectives of the plan.

(3) A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.

(4) A description of the metrics the electrical corporation plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics.

(5) A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.

(6) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.

(7) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.

(8) Plans for vegetation management.

(9) Plans for inspections of the electrical corporation's electrical infrastructure.

(10) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electrical corporation's service territory, including all relevant wildfire risk and risk mitigation information that is part of Safety Model Assessment Proceeding and Risk Assessment Mitigation Phase filings. The list shall include, but not be limited to, both of the following:

(A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electrical corporation's equipment and facilities.

(B) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the electrical corporation's service territory.

(11) A description of how the plan accounts for the wildfire risk identified in the electrical corporation's Risk Assessment Mitigation Phase filing.

(12) A description of the actions the electrical corporation will take to ensure its system will achieve the highest level of safety, reliability, and resiliency, and to ensure that its system is prepared for a major event, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, such as undergrounding, insulation of distribution wires, and pole replacement.

(13) A showing that the utility has an adequate sized and trained workforce to promptly restore service after a major event, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the utility.

(14) Identification of any geographic area in the electrical corporation's service territory that is a higher wildfire threat than is currently identified in a commission fire threat map, and where the commission should consider expanding the high fire threat district based on new information or changes in the environment.



(15) A methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk that is consistent with the methodology used by other electrical corporations unless the commission determines otherwise.

(16) A description of how the plan is consistent with the electrical corporation's disaster and emergency preparedness plan prepared pursuant to Section 768.6, including both of the following:

(A) Plans to prepare for, and to restore service after, a wildfire, including workforce mobilization and prepositioning equipment and employees.

(B) Plans for community outreach and public awareness before, during, and after a wildfire, including language notification in English, Spanish, and the top three primary languages used in the state other than English or Spanish, as determined by the commission based on the United States Census data.

(17) A statement of how the electrical corporation will restore service after a wildfire.

(18) Protocols for compliance with requirements adopted by the commission regarding activities to support customers during and after a wildfire, outage reporting, support for low-income customers, billing adjustments, deposit waivers, extended payment plans, suspension of disconnection and nonpayment fees, repair processing and timing, access to utility representatives, and emergency communications.

(19) A description of the processes and procedures the electrical corporation will use to do all of the following:

(A) Monitor and audit the implementation of the plan.

(B) Identify any deficiencies in the plan or the plan's implementation and correct those deficiencies.

(C) Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, carried out under the plan and other applicable statutes and commission rules.

(20) Any other information that the commission may require.

(d) The commission shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.

(e) The commission shall approve each plan within three months of its submission, unless the commission makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met and issues an order extending the deadline. Each electrical corporation's approved plan shall remain in effect until the commission approves the electrical corporation's subsequent plan. At the time it approves each plan, the commission shall authorize the utility to establish a memorandum account to track costs incurred to implement the plan.

(f) The commission's approval of a plan does not establish a defense to any enforcement action for a violation of a commission decision, order, or rule.

(g) The commission shall consider whether the cost of implementing each electrical corporation's plan is just and reasonable in its general rate case application. Nothing in this section shall be interpreted as a restriction or limitation on Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.

(h) The commission shall conduct an annual review of each electrical corporation's compliance with its plan as follows:

(1) Three months after the end of an electrical corporation's initial compliance period as established by the commission pursuant to subdivision (b), and annually thereafter, each electrical corporation shall file with the commission a report addressing its compliance with the plan during the prior calendar year.

(2) (A) Before March 1, 2021, and before each March 1 thereafter, the commission, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.

(B) (i) Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation's compliance with its plan. The engaged independent evaluator shall consult with, and operate under the direction of, the Safety and Enforcement Division of the commission. The independent evaluator shall issue a report on July 1 of each year in which a report required by paragraph (1) is filed. As a part of the independent evaluator's report, the independent evaluator shall determine whether the electrical corporation failed to fund any activities included in its plan.

(ii) The commission shall consider the independent evaluator's findings, but the independent evaluator's findings are not binding on the commission, except as otherwise specified.

(iii) The independent evaluator's findings shall be used by the commission to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.

(iv) The independent evaluator's findings shall not apply to events that occurred before the initial plan is approved for the electrical corporation.

(3) The commission shall authorize the electrical corporation to recover in rates the costs of the independent evaluator.

(4) The commission shall complete its compliance review within 18 months after the submission of the electrical corporation's compliance report.

(i) An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan.

(j) Each electrical corporation shall establish a memorandum account to track costs incurred for fire risk mitigation that are not otherwise covered in the electrical corporation's revenue requirements. The commission shall review the costs in the memorandum accounts and disallow recovery of those costs the commission deems unreasonable.

**SEC. 39.** Section 8386.1 is added to the Public Utilities Code, to read:

**8386.1.** The commission shall assess penalties on an electrical corporation that fails to substantially comply with its plan. In determining an appropriate amount of the penalty, the commission shall consider all of the following:

(a) The nature and severity of any noncompliance with the plan, including whether the noncompliance resulted in harm.

(b) The extent to which the commission has found that the electrical corporation complied with its plans in prior years.

(c) Whether the electrical corporation self-reported the circumstances constituting noncompliance.

(d) Whether the electrical corporation implemented corrective actions with respect to the noncompliance.

(e) Whether the electrical corporation knew or in the exercise of reasonable care should have known of the circumstances constituting noncompliance.

(f) Whether the electrical corporation had previously engaged in conduct of a similar nature that caused significant property damage or injury.

(g) Any other factors established by the commission in a rulemaking proceeding, consistent with this section.

**SEC. 40.** Section 8386.2 is added to the Public Utilities Code, to read:

**8386.2.** The commission shall require a safety culture assessment of each electrical corporation to be conducted by an independent third-party evaluator. The commission shall set the schedule for each assessment, including updates to the assessment at least every five years. The electrical corporation shall not seek reimbursement for the costs of the assessment from ratepayers.

**SEC. 41.** Section 8386.5 is added to the Public Utilities Code, to read:

**8386.5.** The commission and the Department of Forestry and Fire Protection shall enter into a memorandum of understanding to cooperatively develop consistent approaches and share data related to fire prevention, safety, vegetation management, and energy distribution systems. The commission and the department shall share results from various fire prevention activities, including relevant inspections and fire ignition data.

**SEC. 42.** Section 8387 of the Public Utilities Code is amended to read:

**8387.** (a) Each local publicly owned electric utility and electrical cooperative shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of wildfire posed by those electrical lines and equipment.

(b) (1) The local publicly owned electric utility or electrical cooperative shall, before January 1, 2020, and annually thereafter, prepare a wildfire mitigation plan.

(2) The wildfire mitigation plan shall consider as necessary, at minimum, all of the following:

(A) An accounting of the responsibilities of persons responsible for executing the plan.

(B) The objectives of the wildfire mitigation plan.

(C) A description of the preventive strategies and programs to be adopted by the local publicly owned electric utility or electrical cooperative to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.

(D) A description of the metrics the local publicly owned electric utility or electrical cooperative plans to use to evaluate the wildfire mitigation plan's performance and the assumptions that underlie the use of those metrics.

(E) A discussion of how the application of previously identified metrics to previous wildfire mitigation plan performances has informed the wildfire mitigation plan.

(F) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.

(G) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.

(H) Plans for vegetation management.

(I) Plans for inspections of the local publicly owned electric utility's or electrical cooperative's electrical infrastructure.

(J) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the local publicly owned electric utility's or electrical cooperative's service territory. The list shall include, but not be limited to, both of the following:

- (i) Risks and risk drivers associated with design, construction, operation, and maintenance of the local publicly owned electric utility's or electrical cooperative's equipment and facilities.

- (ii) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the local publicly owned electric utility's or electrical cooperative's service territory.

(K) Identification of any geographic area in the local publicly owned electric utility's or electrical cooperative's service territory that is a higher wildfire threat than is identified in a commission fire threat map, and identification of where the commission should expand a high fire threat district based on new information or changes to the environment.

(L) A methodology for identifying and presenting enterprisewide safety risk and wildfire-related risk.

(M) A statement of how the local publicly owned electric utility or electrical cooperative will restore service after a wildfire.

(N) A description of the processes and procedures the local publicly owned electric utility or electrical cooperative shall use to do all of the following:

- (i) Monitor and audit the implementation of the wildfire mitigation plan.

- (ii) Identify any deficiencies in the wildfire mitigation plan or its implementation, and correct those deficiencies.

- (iii) Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, that are carried out under the plan, other applicable statutes, or commission rules.

(3) The local publicly owned electric utility or electrical cooperative shall present each wildfire mitigation plan in an appropriately noticed public meeting. The local publicly owned electric utility or electrical cooperative shall accept comments on its wildfire mitigation plan from the public, other local and state agencies, and interested parties, and shall verify that the wildfire mitigation plan complies with all applicable rules, regulations, and standards, as appropriate.

(c) The local publicly owned electric utility or electrical cooperative shall contract with a qualified independent evaluator with experience in assessing the safe operation of electrical infrastructure to review and assess the comprehensiveness of its wildfire mitigation plan. The independent evaluator shall issue a report that shall be made available on the Internet Web site of the local publicly owned electric utility or electrical cooperative, and shall present the report at a public meeting of the local publicly owned electric utility's or electrical cooperative's governing board.

**SEC. 43.** Section 8388 is added to the Public Utilities Code, to read:

**8388.** An electrical corporation, local publicly owned electric utility, or community choice aggregator with a contract to procure electricity generated from biomass pursuant to subdivision (b) of Section 399.20.3, commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016), or with a contract that is operative at any time in 2018, and expires or expired on or before December 31, 2023, shall seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date five years later than the expiration date in the contract that was operative in 2018, so long as the contract extension follows the feedstock requirement of subdivision (b) of Section 399.20.3. This section shall not apply to facilities located in federal severe or extreme nonattainment areas for particulate matter or ozone.

**SEC. 44.** Notwithstanding provision (6) of Item 0690-101-0001 of Section 2.00 of the Budget Act of 2018, the funds appropriated in Schedule (2) of that item shall be used to support activities directly related to regional response and readiness. These activities include, but are not limited to, predeployment of California Office of Emergency Services fire and rescue and local government resources that are part of the California Fire and Rescue Mutual Aid System or additional resources upon the authority and approval of the California Office of Emergency Services to meet the requirements for state resources called up for predisaster and disaster response. Prepositioning shall be based upon predesignated criteria and a predicted scale of the emergency event and shall be consistent with this state's current procedures under the mutual aid system.

**SEC. 45.** (a) The sum of one hundred sixty-five million dollars (\$165,000,000) shall be appropriated from the Greenhouse Gas Reduction Fund in the annual Budget Act each year through the 2023–24 fiscal year to the Department of Forestry and Fire Protection for healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires.

(b) The sum of thirty-five million dollars (\$35,000,000) shall be appropriated from the Greenhouse Gas Reduction Fund in the annual Budget Act each year through the 2023–24 fiscal year to the Department of Forestry and Fire Protection to complete prescribed fire and other fuel reduction projects through proven forestry practices consistent with the recommendations of the Forest Carbon Plan, including the operation of year-round prescribed fire crews and implementation of a research and monitoring program for climate change adaptation.

**SEC. 46.** The regulations that the State Board of Forestry and Fire Protection adopts pursuant to the provisions of this act relating to the Z'berg-Nejedly Forest Practice Act of 1973, established in Article 1 (commencing with Section 4511) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code, shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the initial regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. The board may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted or readopted under this section shall remain in effect until revised by the board.

**SEC. 47.** Section 24 of this bill incorporates amendments to Section 4799.05 of the Public Resources Code proposed by this bill and Senate Bill 1079. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 4799.05 of the Public Resources Code, and (3) this bill is enacted after Senate Bill 1079, in which case Section 4799.05 of the Public Resources Code, as amended by Senate Bill 1079, shall remain operative only until the operative date of this bill, at which time Section 24 of this bill shall become operative, and Section 23 of this bill shall not become operative.

**SEC. 48.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.