



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-2276 Forestry: timber harvesting plans: exemptions. (2023-2024)

SHARE THIS:  

Date Published: 09/23/2024 09:00 PM

Assembly Bill No. 2276

CHAPTER 388

An act to amend Sections 4584, 4584.1, 4584.2, and 4589 of the Public Resources Code, and to amend Section 399.20.3 of the Public Utilities Code, relating to forestry.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2276, Wood. Forestry: timber harvesting plans: exemptions.

The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection. The act authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities, as prescribed, including: (1), for a period of 5 years following the adoption of emergency regulations, 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, known as the Small Timberland Owner Exemption, (2), until January 1, 2026, the harvesting of those trees that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for specified purposes, known as the Forest Fire Prevention Exemption, (3), until January 1, 2026, the cutting or removal of trees on the person's property in compliance with specified defensible space requirements, as provided, and (4) the cutting or removal of trees to restore and conserve California black or Oregon white oak woodlands and associated grasslands.

This bill would (1) repeal the Small Timberland Owner Exemption, (2) rename the Forest Fire Prevention Exemption the Forest Resilience Exemption, revise the standards and criteria for qualifying for that exemption, and extend that exemption until January 1, 2031, and (3) extend until January 1, 2031, the other exemption described above. The bill would also revise requirements governing compliance with the cutting or removal of trees to restore and conserve California black or Oregon white oak woodlands and associated grasslands. The bill would require the board to adopt emergency regulations that the board considers necessary to implement and ensure compliance with these requirements and with the Forest Resilience Exemption requirements. The bill would also make conforming changes.

This bill would incorporate additional changes to Section 399.20.3 of the Public Utilities Code proposed by AB 2750 to be operative only if this bill and AB 2750 are enacted and this bill is enacted last.

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

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

SECTION 1. 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.
- (v) The board may adopt regulations allowing a waiver of the one-time limitation described in paragraph (1) upon finding that the imposition of the one-time limitation would impose an undue hardship on the applicant. 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 federal 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) (A) 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 Resilience Exemption.

(B) The board may authorize an exemption pursuant to subparagraph (A) 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 500 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 subparagraphs (C) to (I), inclusive, are met.

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

(D) (i) 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.

(ii) 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, or clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (2) of subdivision (a) of Sections 913.2, 933.2, and 953.2 of Title 14 of the California Code of Regulations.

(II) The registered professional forester responsible for preparing the notice of exemption shall identify the designated postharvest stocking within the notice of exemption. The selected stocking shall be applicable to, and consistent with, silviculture that would apply to the preharvest stand condition provided pursuant to clause (i).

(III) Additional information on preharvest stand conditions, including, but not limited to, stand ages, stand structure, past management activities, and landowner goals and objectives shall also be provided by the registered professional forester preparing and submitting the exemption that substantiates the selection of postharvest stocking.

(iii) Within the coast district, 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 4 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 4 inches in diameter at breast height shall be retained per acre for Site IV and V lands.

(iv) Within the northern district and southern district, if the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches in diameter at breast height, a minimum of 65 trees per acre over 4 inches in diameter at breast height shall be retained.

(v) 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.

(vi) The board may adopt specific regulations for the removal of dead and dying trees in amounts less than 10 percent of the average volume per acre for trees up to 36 inches in diameter at breast height. Regulations adopted by the board shall consider safety, fuel hazard abatement, mortality capture, the adequacy and retention of wildlife trees, especially those trees over 30 inches in diameter at breast height, and standards of enforceability for the department. All trees over 30 inches in diameter at breast height that are harvested pursuant to this paragraph shall be marked by, or under the supervision of, a registered professional forester before felling. The registered professional forester shall consult with the director before felling any dead or dying trees in excess of 30 inches in diameter at breast height.

(vii) All trees harvested pursuant to this paragraph shall be marked by, or under the supervision of, a registered professional forester before felling operations begin.

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

(ix) No trees of the genus *Quercus* that are greater than 22 inches in diameter at breast height shall be harvested under a notice of exemption submitted pursuant to this subdivision, except for those trees that need to be removed to mitigate safety.

(x) 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 information explaining how modification of species diversity will benefit forest health and resiliency.

(E) (i) 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.

(ii) Slash and woody debris within 50 feet of a public road or critical infrastructure, as defined by the board, shall be chipped, burned, or removed.

(iii) The standards required by clauses (i) and (ii) shall be achieved on approximately 80 percent of the treated area.

(F) Before the 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.

(G) 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:

(i) 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.

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

(iii) 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.

(iv) 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.

(v) Use of temporary roads shall comply with the operational provisions of Article 12 (commencing with Section 923) of Subchapter 4 of Chapter 4 of Division 1.5 of Title 14 of the California Code of Regulations, and recognize guidance on hydrologic disconnection in Technical Rule Addendum Number 5.

(vi) 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 watercourse.

(vii) 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.

(viii) 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.

(ix) (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 Resilience Exemption, pursuant to this subparagraph.

(VIII) No trees larger than 30 inches in diameter at breast height shall be removed for the purposes of road construction or reconstruction under a notice of exemption submitted pursuant to this subdivision.

(H) Only trees less than 30 inches in diameter at breast height may be removed. The board, in consultation with the department, shall develop clearly written guidance documents on inspection and enforceability standards relating to standards set forth in this paragraph.

(I) 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.

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

(K) 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.

(2) (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.

(3) This subdivision shall become inoperative on January 1, 2031.

(k) (1) 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:

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

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

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

(B) No tree larger than 30 inches in diameter at breast height shall be harvested for commercial purposes. If necessary to achieve the oak woodland restoration goal of the exemption, trees larger than 30 inches in diameter at breast height may be harvested. The registered professional forester shall provide information on the need to remove these trees, and consult with the director before felling any tree in excess of 30 inches in diameter at breast height.

(C) Only conifers within 300 feet of a California black or Oregon white oak may be harvested.

(D) The total area exempted pursuant to this subdivision shall not exceed 300 acres per ownership in a planning watershed per five-year period.

(E) Conifer shall be reduced to less than 25 percent of the combined hardwood and conifer postharvest stand stocking levels. Decadent and deformed trees of wildlife value that are retained shall not count toward basal area requirements.

(F) No more than 20 percent of the total basal area of preexisting oak stock shall be cut or removed during harvest. The board may establish minimum postharvest basal area requirements for California black or Oregon white oak.

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

(2) (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.

(l) (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 fuel break 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, 2031.

SEC. 2. Section 4584.1 of the Public Resources Code is amended 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 postharvest 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 shall 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 Wildlife, 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 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 the Forest Resilience Exemption created pursuant to subdivision (j) 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. 3. Section 4584.2 of the Public Resources Code is amended to read:

4584.2. Rules and regulations adopted by the board pursuant to subdivision (j) 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 postharvest 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 Wildlife, 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 the Forest Resilience Exemption created pursuant to subdivision (j) 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. 4. 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 posttreatment 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, as those subdivisions read on January 1, 2024.

(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. 5. 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 (6) of subdivision (f) of Section 399.20.

(2) "Tier 1 high hazard zone" includes areas where wildlife and falling trees threaten electrical transmission and distribution 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) (1) In addition to the requirements of subdivision (f) of Section 399.20, by December 1, 2023, electrical corporations shall collectively procure, through financial commitments of 5 to 15 years, inclusive, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations before 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.

(2) Paragraph (1) shall not apply to a utility subject to subdivision (g) if both of the following apply:

(A) The utility, either directly or through a joint powers authority, entered into five-year financial commitments for its proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects pursuant to this section as it was enacted by Chapter 368 of the Statutes of 2016.

(B) The utility's financial commitments referenced in subparagraph (A) include, (1) a contract with a facility operator that was, on June 1, 2022, in a bankruptcy or other insolvency proceeding, or (2) a contract for a project that does not deliver energy to the utility.

(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, as those subdivisions read on January 1, 2024.

(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.

(j) For purposes of this section, any incremental procurement of electricity products from bioenergy resources by a new contract or contract extension of five years or longer in duration shall be from a resource that meets emission limits equivalent to, or more stringent than, the applicable best available retrofit control technology, as determined by the local air pollution control district or air quality management district. The determination shall be made before the start of the operating period under the new contract or contract extension.

SEC. 5.5. 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 (6) of subdivision (f) of Section 399.20.

(2) "Tier 1 high hazard zone" includes areas where wildlife and falling trees threaten electrical transmission and distribution 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) (1) In addition to the requirements of subdivision (f) of Section 399.20, on or before July 1, 2025, electrical corporations shall collectively procure, through financial commitments of 5 to 15 years, inclusive, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations before 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.

(2) Paragraph (1) does not apply to a utility subject to subdivision (g) if both of the following apply:

(A) The utility, either directly or through a joint powers authority, entered into five-year financial commitments for its proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects pursuant to this section as it was enacted by Chapter 368 of the Statutes of 2016.

(B) The utility's financial commitments referenced in subparagraph (A) include either: (i) a contract with a facility operator that was, on June 1, 2022, in a bankruptcy or other insolvency proceeding; or (ii) a contract for a project that does not deliver energy to the utility.

(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, as those subdivisions read on January 1, 2024.

(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.

(j) For purposes of this section, any incremental procurement of electricity products from bioenergy resources by a new contract or contract extension of five years or longer in duration shall be from a resource that meets emission limits equivalent to, or more stringent than, the applicable best available retrofit control technology, as determined by the local air pollution control district or air quality management district. The determination shall be made before the start of the operating period under the new contract or contract extension.

SEC. 6. Section 5.5 of this bill incorporates amendments to Section 399.20.3 of the Public Utilities Code proposed by both this bill and Assembly Bill 2750. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 399.20.3 of the Public Utilities Code, and (3) this bill is enacted after Assembly Bill 2750, in which case Section 5 of this bill shall not become operative.