

## Forest Practice Rules – Conversion Article (excerpts)

Article 7, Subchapter 7, Chapter 4, Division 1.5, Title 14, California Code of Regulations

### § 1100. Definitions.

The following are definitions of words and terms as used in this article:

- (a) “Alternate Use” or “Alternative Use” means a proposed land use that is not a Compatible Use within a Timberland production zone. (Reference: § 51134(b), Government Code.)
- (b) “Bona Fide Intention” or “bona fide intent” means a present, sincere intention of the applicant to conform with and successfully execute the conversion Plan, as determined by the Director in accordance with provisions of § 1105.2. (Reference: § 4623, Public Resources Code.)
- (c) “Coastal Commercial Timberlands” means Timberland as defined in PRC § 4526, for those lands which lie within the Coastal Zone and outside a Timberland production zone. (Reference: §§ 4526 and 30243, Public Resources Code.)
- (d) “Coastal Zone” means those lands defined in PRC § 30103. (Reference: § 30103, Public Resources Code.)
- (e) “Compatible Use” means Compatible Use as defined in Gov. C. 51104(h) and 51201(e), as made specific by county or city ordinance adopted pursuant thereto. (Reference: §§ 51104(h) and 51201(e), Government Code.)
- (f) “Contiguous” means two or more parcels of land that are adjoining or neighboring or are sufficiently near to each other, as determined by the County Board of Supervisors or City Council, that they are manageable as a single forest unit. (Reference: § 51104(b), Government Code.)
- (g) “Timberland Conversion” means:
  - (1) Within non-TPZ Timberland, transforming Timberland to a nontimber growing use through Timber Operations where:
    - (A) Future timber harvests will be prevented or infeasible because of land occupancy and activities thereon; or
    - (B) Stocking requirements of the applicable district forest practice Rules will not be met within five years after completion of Timber Operations; or
    - (C) There is a clear intent to divide Timberland into ownerships of less than three acres (1.214 ha.).
  - (2) Within TPZ lands, the immediate rezoning of TPZ lands, whether Timber Operations are involved or not, except as exempt from a Timberland conversion permit under 14 CCR § 1104.1.
- (h) “Conversion Permit” means the Timberland conversion permit, issued by the Director or the Board upon appeal, approving the application for Timberland conversion and authorizing a conversion of Timberland to use or uses other than the growing of timber. (Reference: §§ 4622, 4624, 4624.5 and 4625, Public Resources Code.)
- (i) “Government Agency” means the State or any department, agency, or public body thereof, a city or county, public corporation, municipal corporation, or public district. (Reference: §§ 21062 and 21063, Public Resources Code.)
- (j) “Immediate Rezoning” means a change in zoning for land use by the appropriate county or city having jurisdiction of an area within a TPZ to allow an alternative use

pursuant to Article 4 (commencing with § 51130) of Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code. (Reference: § 4526, Public Resources Code; § 51130, Government Code.)

(k) "Land Parcel" means a piece of land under one ownership where no part is completely separated from any other part by a different fee ownership.

(l) "Parcel" means parcel as defined in § 51104(i) of the Government Code.

(m) "Timberland" means Timberland as defined in PRC § 4526, for land outside a Timberland production zone. "Timberland" means Timberland as defined in Gov. C. § 51104(f), for land within a Timberland production zone. (Reference: § 4526, Public Resources Code; § 51104(f), Government Code.)

(n) "Timberland Production Zone" or "TPZ" means Timberland production zone as defined in Gov. C. § 51104(g). (Reference: § 51104(g), Government Code.)

Note: Authority cited: Section 4621, Public Resources Code. Reference: Sections 700, 701, 4526, 4621, 4622, 4623, 4624, 4624.5, 4625, 4626, 21062, 21063, 30103 and 30243, Public Resources Code; and Sections 51100, 51111 and 51134(b), Government Code.

### **§ 1101. Purpose.**

The purpose of these regulations is to interpret and make specific certain provisions of the Z'berg-Nejedly Forest Practice Act of 1973, contained in Chapter 8 (commencing with § 4511) of Part 2, Division 4 of the Public Resources Code; the Environmental Quality Act of 1970, contained in Division 13 (commencing with § 21000) of the Public Resources Code; portions of the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976 (Chapter 176, California Statutes of 1976), contained in Chapter 67 (commencing with § 51100) or Part 1, Division 1, Title 5 of the Government Code; the California Coastal Act of 1976, contained in Division 20 (commencing with § 30000) of the Public Resources Code; and the Public Records Act, contained in Chapter 3.5 (commencing with § 6250) of Division 7, Title 1 of the Government Code. These regulations pertain to the conversion of certain timber-growing lands to a use or uses other than the growing of timber.

Note: Authority cited: Section 4621, Public Resources Code. Reference: Sections 4621 and 30243, Public Resources Code; Section 51133, Government Code; and Chapters 176, 1300 and 1330, Statutes of 1976.

### **§ 1102. Authority Delegated to Director.**

The Board delegates its authority and responsibilities to the Director for administration of Article 9 (commencing with § 4621) of Chapter 8, Part 2, Division 4 of the Public Resources Code, and Article 4 (commencing with § 51130) of Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code, and the administrative regulations adopted pursuant to each of the above cited authorities, except that all hearings thereunder shall be before the Board.

Note: Authority cited: Section 4627, Public Resources Code. Reference: Sections 4621-4628, Public Resources Code; and Section 51133, Government Code.

### **§ 1103. Conversion of Timberland.**

Any Person, firm, corporation, company, partnership or government agency owning Timberland for which the Timberland owner proposes conversion as defined in § 1102

shall apply to the Director on a form prescribed by him for issuance of a Timberland Conversion Permit.

Note: Authority cited: Sections 4621 and 4627, Public Resources Code. Reference: Section 4621, Public Resources Code.

### **§ 1103.1. Prohibited Activity.**

(a) No Timber Operations or other conversion activities shall be conducted on Timberland which is proposed to be converted to a use other than the growing of timber unless a conversion permit has been issued by the Director or the Board upon appeal and the permit has been recorded in compliance with 14 CCR § 1107.4(a).

(b) No Timber Operations shall be conducted on Timberland for which a conversion permit has been issued until a Timber Harvesting Plan has been filed with, and found in conformance by, the Director in accordance with Article 7 (commencing with § 4581) of Chapter 8, Part 2, Division 4 of the Public Resources Code and the Rules and regulations of the Board issued pursuant thereto.

(c) The Timberland owner shall provide each Timber Operator copies of both the recorded conversion permit, and recorded amendments thereto, and the approved Timber Harvesting Plan. Copies of said documents shall be conveniently available for inspection at all times during Timber Operations conducted pursuant to said conversion permit.

Note: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

### **§ 1103.2. Public Records.**

All applications, forms, documents, correspondence, maps, photographs, and other materials submitted to the Director or Board relating to an application for conversion are public records pursuant to the provisions of the Public Records Act, contained in Chapter 3.5 (commencing with § 6250) of Division 7, Title 1 of the Government Code.

Note: Authority cited: Section 4621, Public Resources Code; and Sections 6250-6261, Government Code. Reference: Section 6252(d), Government Code; and Section 4582.6, Public Resources Code.

### **§ 1104. Operations Requiring Conversion Permit.**

Except as exempted by 14 CCR §§ 1104.1 and 1104.2 of this article a Timberland conversion permit issued by the Director is required for conversion of Timberland as defined in § 1100. Issuance of the Timberland Conversion Permit to the Timberland owner must be completed before conversion operations begin. "Conversion operations" include final immediate rezoning of Timberland production zone lands, and Timber Operations as defined in PRC § 4527 on nontimberland production zone Timberlands.

Note: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Section 4527, Public Resources Code.

#### **§ 1104.1. Conversion Exemptions. [*not printed here*]**

#### **§ 1104.2. Exemption for Conversion of Non-TPZ Land for Subdivision Development.**

Timber Operations for the conversion of land not in the Timberland Production Zone (TPZ) for subdivision development are exempt from this article, subject to all of the following conditions:

(a) The county board of supervisors or city council having jurisdiction has approved a tentative subdivision map pursuant to the Subdivision Map Act commencing with Government Code § 66410.

(b) The county board of supervisors or city council having jurisdiction has granted required use permits and other necessary approvals.

(c) Before Timber Operations begin and before a Timber Harvesting Plan (THP) is submitted, the Timberland owner shall file a Notice of Exemption from Timberland Conversion Permit for Subdivision on a form prescribed by the Director. The Notice shall include, but need not be limited to, the following:

(1) Names and addresses of Timberland owner(s), Timber Owner(s), and developer(s).

(2) Documentation that a Notice of Determination has been filed with the Office of Planning and Research pursuant to PRC § 21108 or with the appropriate county clerk pursuant to PRC § 21152.

(3) Estimated date of completion of the Project.

(4) Acres of Timberland to be converted.

(5) Legal property description of the conversion area.

(6) Signature, title, and date of signing of the Timberland owner(s). In the case of a partnership, at least one of the partners shall sign the application. For a corporation, a corporate officer shall sign. In other cases of more than one owner, all owners shall sign. An agent may sign for the owner(s) if so designated in writing submitted with the Notice.

(7) Plat or map of the area to be converted.

(8) Documentation of the county or city tentative subdivision map approval, conditions of approval, required use permit, or other required county or city Project approvals.

(d) Except as provided in this article, the applicable requirements of PRC §§ 4511 through 4628 inclusive, PRC §§ 5093.50 through 5093.68 inclusive, and all regulations adopted pursuant thereto shall apply to the Timber Operations.

(e) If the subdivision development Project is not completed or is abandoned, the Director may take corrective action pursuant to PRC §§ 4605-4611 to have restocked those parts of the area from which timber has been harvested and which do not meet the Stocking requirements of this chapter. For purposes of this subsection, the Project shall be deemed abandoned or not completed if:

(1) The county or city tentative map approval has expired; and

(2) No further work has been carried on to complete the subdivision for three years after the expected date of completion stated in the THP. The Director shall order inspections as needed to determine whether the Project has been completed as proposed.

(f) Partial performance shall be recognized. Those portions of the subdivision shall be deemed completed and excluded from the Stocking requirement where the development has been completed and residential services have been provided pursuant to the Plan for development.

Note: Authority cited: Sections 4551, 4621 and 4628, Public Resources Code.

Reference: Sections 4551.5, 4621.1 and 21100, Public Resources Code.

### **§ 1104.3. Timberland Conversion Permit Fees. [*not printed here*]**

## **§ 1105. Application.**

The conversion permit application shall be in a form prescribed by the Director and shall require but not be limited to the following information: the name and address of the applicant; the name and address of the Timberland owner of record; the name and address of the Timber Owner; the legal description, general Plan designation, and zoned status of the proposed conversion area; the proposed future use or uses of said area; the dates when conversion is to be commenced and completed; the approximate number of acres to be converted; the zoned status of adjacent property; a description of other land owned by the applicant in the surrounding area which could accommodate the proposed use or uses; together with a copy of the conversion Plan. The application shall be executed under penalty of perjury.

Note: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Section 4623, Public Resources Code.

### **§ 1105.2. Director's Determination.**

The Director shall determine the applicant's bona fide intention to convert in light of the present and predicted economic ability of the applicant to carry out the proposed conversion; the environmental feasibility of the conversion, including, but not limited to, suitability of soils, slope, aspect, quality and quantity of water, and micro-climate; adequacy and feasibility of possible measures for mitigation of significant adverse environmental impacts; and other foreseeable factors necessary for successful conversion to the proposed land use.

### **§ 1105.3. Conversion Plan.**

A conversion Plan in a form prescribed by the Director shall become a part of the application. The Plan conversion shall set forth in detail information pertaining to present and future use, soils, topography, conversion techniques, conversion time schedule and such other information as may be required and is applicable to the particular future use to which the land will be devoted.

Note: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Sections 4621 and 4627, Public Resources Code.

### **§ 1105.4. Additional Proof.**

The Director or the Board upon appeal may require that the applicant provide such further or additional proof or information as in the Director's or Board's judgment is necessary to allow him to decide whether or not to issue a conversion permit pursuant to PRC §§ 4621.2 and 4623.

Note: Authority cited: Sections 4621.2 and 4623, Public Resources Code. Reference: Section 4624.5, Public Resources Code.

## **§ 1106. Conversion Permit Issuance.**

(a) The Director shall issue a conversion permit if:

- (1) in his judgment the bona fide intent of the applicant to convert is established;
- (2) he makes the written findings pursuant to PRC § 4621.2, when applicable;
- (3) he makes the written findings pursuant to PRC § 21081, if an environmental impact report has been prepared;

- (4) he finds that necessary and Feasible mitigation measures have been incorporated into the proposed conversion; and
- (5) he finds that no other proximate and suitable land not within a TPZ is available for the proposed alternative use for lands within a TPZ, if PRC § 4621.2 applies.
- (b) The Board upon appeal shall apply the same standards as the Director in subsection (a) above in determining whether to issue a conversion permit.
- Note: Authority cited: Sections 4625, 4627 and 21081, Public Resources Code.  
Reference: Sections 4621.2 and 21081, Public Resources Code.

### **§ 1106.1. Contents of Conversion Permit.**

The conversion permit shall include, but not be limited to, the name of the permittee, identification of code section of the forest practice Rules and regulations from which the Timber Operations are exempt, description of the lands to which the conversion permit is applicable, and the period of time during which the conversion permit is valid.

Note: Authority cited: Section 4625, Public Resources Code. Reference: Section 4625, Public Resources Code.

### **§ 1106.2. Timber Harvesting Plan Processing.**

Prior to the start of Timber Operations, the applicant shall submit to the Director a Timber Harvesting Plan applicable to Timber Operations set forth in the conversion Plan. The THP may be submitted concurrently with the Timberland Conversion Permit application but the Director may not approve the THP until the Timberland Conversion Permit is issued.

Note: Authority cited: Sections 4621 and 4627, Public Resources Code. Reference: Sections 4581 and 4582, Public Resources Code.

### **§ 1106.3. Recordation, Renewal, Transferability.**

- (a) The permittee shall submit the conversion permit to the County Recorder for recording in each county in which the property is located before beginning any operations contemplated under said permit. Amendments, suspensions, revocations, and cancellations of conversion permits shall be recorded in the same manner.
- (b) A conversion permit may be renewed by the Director upon a proper showing of cause and necessity by the permittee. The Director may deny renewal and require a new application if he finds that circumstances have substantially changed.
- (c) The privilege granted to the permittee is nontransferable and nonassignable for any purpose without written approval of the Director.

Note: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

### **§ 1106.4. Conversion Permit Denial.**

- (a) The Director shall deny a conversion permit:
- (1) for any of the reasons set forth in PRC § 4624;
  - (2) if, in the Director's judgment, the applicant has failed to provide satisfactory proof of his bona fide intent to convert;
  - (3) if the Director cannot make the findings required by PRC § 21081, if an environmental impact report has been prepared;

(4) if the Director finds that necessary and Feasible mitigation measures have not been incorporated into the proposed conversion; or

(5) for lands within a TPZ, if PRC § 4621.2 applies and the Director finds that other proximate and suitable land not within a TPZ is available for the proposed alternative use.

(b) The Board upon appeal shall deny a conversion permit for any of the reasons specified in subsection (a) above.

Note: Authority cited: Sections 4624 and 4627, Public Resources Code. Reference: Sections 4621.2, 4624, 4624.5 and 21081, Public Resources Code.

### **§ 1106.5. Denial, Suspension, Revocation.**

(a) Except as provided in subsection (b), the Director may deny, suspend or revoke a conversion permit in accordance with the requirements of Article 9 (commencing with § 4621) of Chapter 8, Part 2, Division 4 of the Public Resources Code, provided that all proceedings in connection with such action shall be conducted in accordance with the provisions of Chapter 5 (commencing with § 11500) of Part 1, Division 3, Title 2 of the Government Code.

(b) The Director may deny a conversion permit pursuant to PRC § 4621.2(e) provided that all proceedings in connection with such action shall be conducted in accordance with the provisions of subsection (a) above, except that the applicant must request a hearing before the Board within 15 days of service of the denial. The hearing shall be commenced within 60 days from the filing of the appeal unless a later hearing date is mutually agreed upon by the applicant and the Board.

Note: Authority cited: Sections 4621.2(e), 4624, 4626 and 4627, Public Resources Code; and Sections 11500 et seq., Government Code. Reference: Section 4621, Public Resources Code; and Sections 11500 et seq., Government Code.

### **§ 1107. Cancellation by Permittee.**

Upon application by the permittee for cancellation, the conversion permit may be cancelled by the Director upon such terms and conditions as he may set forth. Upon cancellation of the conversion permit, an agreement of cancellation, executed by the permittee and the Director, shall be recorded by the permittee in those counties in which the permit was originally recorded. Upon such recording, the subject land shall revert back to Timberland and Stocking shall be established pursuant to PRC §§ 4561 and 4561.3. The Director shall provide a copy of the cancellation agreement to the county assessors and the county planning directors of those counties in which the property is located.

Note: Authority cited: Section 4621, Public Resources Code. Reference: Sections 4561 and 4561.3, Public Resources Code.

### **§ 1108. Coastal Zone Conversion.**

A Timberland conversion permit is required for conversion of coastal commercial Timberland to uses other than the growing of timber. Except as hereafter provided, conversion of any such Timberland shall be limited to providing for necessary timber processing and related facilities.

The Director, or the Board upon appeal, may approve conversion of coastal commercial Timberland for other than necessary timber processing and related facilities only if all of the following conditions are met:

(a) Such conversion will not introduce new uses or significantly intensify existing uses that are incompatible with timber growing on areas adjacent to the area proposed for conversion, or that have a substantial adverse impact on coastal resources, as determined by the Director; and

(b) The area proposed for conversion is in a unit of noncommercial size as determined by the California State Coastal Commission or the zoning in a certified local coastal plan; and

(c) The conversion complies with all other applicable laws, Rules, and regulations.

Note: Authority cited: Sections 4621, 21100 and 30243, Public Resources Code.

Reference: Sections 21100, 30007.5 and 30243, Public Resources Code.

### **§ 1109. Immediate Rezoning.**

Immediate rezoning of land within a TPZ shall be accomplished in compliance with one of the two procedures set forth in 14 CCR §§ 1109.1 and 1110.

Note: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

#### **§ 1109.1. City or County Tentative Approval.**

When a county Board of Supervisors or City Council tentatively approves an immediate rezoning pursuant to Gov. C. § 51133, for which a conversion permit is also required, it shall forward the following to the Director: documentation of its tentative approval upon a four-fifths vote of the full body; copies of the Notices sent to landowners within one mile (1.61 km) of the exterior boundary of the land upon which immediate rezoning is proposed, and the formal findings that immediate rezoning is not inconsistent with the purpose of subdivision (j) of Section 3 of Article XIII of the State Constitution, and findings that rezoning is in the public interest, as required by Gov. C. § 51133(a); minutes of public hearing(s), including hearings held by the appropriate local planning agency pursuant to the application for immediate rezoning and any related applications for local government general plan land use category change, conditional use permit, or other entitlement for use; copies of documents, plans, maps, and photographs submitted in conjunction with the said public hearing(s); and copies of completed environmental documentation submitted pursuant to the application for immediate rezoning.

Upon the receipt of the foregoing materials, the completed conversion application and conversion Plan, and such further information as may be required, the Director shall determine whether or not to approve the conversion pursuant to PRC § 4621.2. Upon approval of the conversion by the Director or by the Board upon appeal, the Director shall so notify the county Board of Supervisors or City Council, who may then finalize the immediate rezoning.

Note: Authority cited: Section 4621.2, Public Resources Code. Reference: Section 51133, Government Code.

#### **§ 1109.2. Public Interest.**



In determining whether or not to make the written finding contained in PRC § 4621.2(a)(1), the Director or the Board upon appeal shall consider the following elements of public interest:

(a) Whether the alternative use will serve a public need; provide a public service; benefit the local community and region, including economic and social benefits; avoid damage or threatened damage to other property, especially public parks and other publicly-owned lands; or involve costs and secondary impacts caused by services required by the alternative use.

(b) The adverse environmental impacts of the alternative use and mitigation thereof. Impacts shall include, but not be limited to, impacts on Lakes, Streams, and other waters; wildlife; air quality; and aesthetics.

(c) The impact on the long term timber supply capability of California, including the cumulative impact from conversion of similar properties.

(d) The availability of proximate and suitable land to accommodate the alternative use which lies outside of a TPZ or which would involve the removal of lower quality Timberlands from productive use.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(1), (a)(3) and (b), Public Resources Code; Sections 51110(b), 51110.1(b), 51112(b) and (c), 51134(a)(1) and (b), Government Code.

### **§ 1109.3. No Substantial and Unmitigated Adverse Effect upon Other Timberland Production Zones Within One Mile (1.609 km).**

In determining whether or not to make the written finding contained in PRC § 4621.2(a)(2), the Director or the Board upon appeal shall consider such adverse factors as increased fire hazard and risk, forest pest potential, mass land movement, gully and sheet erosion, increased windthrow, shock to nearby stands from exposure, harmful fumes, emissions, dust, discharge of waste or chemicals, unconfined grazing of livestock, diversion or impoundment of water, wildlife use changes damaging to other properties, and other potential adverse factors.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(2), Public Resources Code.

### **§ 1109.4. Suitability of Soils, Slopes, and Watersheds.**

In determining whether or not to make the written finding contained in PRC § 4621.2(a)(3), the Director or the Board upon appeal shall consider the following elements: whether the soil types and characteristics can support the proposed use, the Erosion Hazard Rating of the soils and slopes in light of the proposed use, potential mass land movement or subsidence, possible Harm to quality or quantity of water produced in the watershed, fire hazard and risk to the watershed, adverse Effects to fish and wildlife from removal of habitat cover, and such other elements as appropriate.

Note: Authority cited: Section 4621.2(a)(3) and 4623, Public Resources Code.

Reference: Section 4621.2(a)(3), Public Resources Code.

### **§ 1109.5. No Other Reasonable or Comparable Timber Growing Use.**

In determining pursuant to PRC § 4621.2(c) whether or not Timberlands within a TPZ that are the subject of a conversion application may be put to another reasonable or comparable timber-growing use, the Director or the Board upon appeal shall consider

timber stand volume, timber growth rate, timber site and soil, climate, potential markets, any other relevant factors.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(c), Public Resources Code.

### **§ 1109.6. Supplemental Data and Opinions.**

As an aid to the Director or the Board upon appeal in making the findings and approving the proposed conversion pursuant to PRC § 4621.2, the Director or the Board upon appeal may upon their own initiative consult with or request reports from appropriate experts. The Director or the Board upon appeal may also require the applicant to furnish appropriate and necessary information or documentation, including that from appropriate expert consultants at the applicant's expense.

Note: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2, Public Resources Code.