

Board of Forestry and Fire Protection

INITIAL STATEMENT OF REASONS

“Forest Resilience and Oak Woodland Exemption”

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations
Division 1.5, Chapter 4, Subchapter 1 & 7,**

Amend §§ 895, 895.1, 1038, 1038.3, 1038.4, 1052.1, and 1052.4

INTRODUCTION INCLUDING PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS (pursuant to GC § 11346.2(b)(1))...NECESSITY (pursuant to GC § 11346.2(b)(1) and 11349(a))....BENEFITS (pursuant to GC § 11346.2(b)(1))

Pursuant to the Z’berg-Nejedly Forest Practice Act of 1973, PRC § 4511, *et seq.* (Act) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

OPRC § 4551 requires the Board to “...adopt district forest practice rules... to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources...” and PRC § 4553 requires the Board to continuously review the rules in consultation with other interests and make appropriate revisions.

PRC § 4551.5 requires that the rules and regulations adopted by the Board apply to the conduct of Timber Operations, which is defined within PRC § 4527(a)(1) as “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, fuel breaks, 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 tree marking, surveying, or road flagging.” The term “commercial purposes”, as used within PRC § 4527 is defined by reference to an illustrative, non-exhaustive list of activities within PRC § 4527(a)(2) that include “(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.”

Additionally, the Act defines “Timberland” within PRC § 4526 as “land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees.”

The Act recognizes that the “forest resources and timberlands of the state are among the most valuable of the natural resources of the state”, and that “it is the policy of this state to encourage prudent and responsible forest resource management...” (PRC § 4512).

On September 22, 2024 Governor Newsom signed Assembly Bill 2276 (Stats. 2024, chapter 388) which became effective January 1, 2025. Assembly Bill 2276 amended sections of the Public Resources Code, including sections of the Z’Berg-Nejedly Forest Practice Act of 1973 (Act). The sections amended by AB 2276 include sections 4584 and 4584.1, which describe exemptions to the Act which may be adopted by regulation by the Board. The bill addresses matters related to forest health within the Act, including changes which the Legislature deemed to be emergencies: renaming the Forest Fire Prevention Exemption to the Forest Resilience Exemption, making other adjustments to that exemption, and revising certain aspects of the Oak Woodland Exemption.

The Forest Fire Prevention, now Forest Resilience Exemption, has been a successful tool for landowners to reduce their vulnerability to wildfires, and the preservation and management of oak woodlands and forests is vital for ecological and cultural reasons. As such the Legislature saw fit to authorize the Board to adopt these rules via emergency rulemaking to shorten the gap during which the Forest Resilience Exemption would be unavailable to landowners, and changes to the Oak Woodland Exemption would not be reflected in the regulatory text. On January 15, 2025, the Board adopted emergency regulations for these exemptions and renewed it for 90 days on July 14, 2025.

Oak woodlands were historically maintained by cultural fire to prevent conifer encroachment, maintain fire resistance, and protect forest health. The era of fire suppression has limited use of this management tool, resulting in oak stands being overtaken by young conifers. Schriver et al (2018) surveyed California black oak and Oregon white oak populations across their range and found consistent conifer encroachment into the oak forests and woodlands across the entire region. Stands with significant conifer encroachment have fuel loads too heavy to allow use of prescribed fire without significant damage to oaks. This has resulted in loss of oak habitat which has tremendous cultural and ecological importance. The Forest Practice Rules (Rules) require management for Commercial Species on lands where Group A Commercial Species have grown in the recorded past. California black oak and Oregon white oak are both Group B commercial species, due to their limited utility as timber. Under standard use of the Rules, removing conifers (mostly Group A commercial species) to allow for stand dominance of Group B species is prohibited. The Oak Woodland

Exemption is an exception: it allows a streamlined pathway to manage for these critical tree species.

The statutory changes change the standard for enforcement from stump diameter to tree diameter at breast height. Upon review of the existing definitions for “d.b.h.” and “Diameter”, it was found that those definitions were not consistent with common use of the term, requiring the determination of average ground level instead of the use of the uphill side of the tree as detailed in the Society of American Foresters Dictionary of Forestry.

Catastrophic wildfire in California is a significant threat to life, public health, infrastructure, private property, and natural resources. This threat has grown in recent years and is likely to continue due to factors such as widespread and unprecedented tree mortality, extensive loading of fuels within the wildland, continued population growth, changing land use patterns, drought, and shifts in climatic conditions. Limiting the impacts of wildfires via reducing high fuel loads and dead and downed fuels in Timberland has become an important focus of the management of Timberland (Agee and Skinner 2005).

The Forest Fire Prevention Exemption Monitoring Report (CAL FIRE 2022): identified an issue with canopy closure requirements in the now-defunct Forest Fire Prevention Exemption had also been identified in particularly in younger, even-aged stands, meeting optimal conditions for fuel reduction was limited by high canopy cover requirements. “Older, more developed stands may benefit from denser canopies to limit overhead incoming light when surface and ladder fuels are reduced adequately, while younger stands (“plantations”) may benefit from increased tree spacing to reduce horizontal continuity as the stand matures.” The report also notes “Small, young, forest stands likely will always have less closure/cover when spaced at a level close to a more mature and ‘fire resilient’ stand, while currently acceptable (under the FPRs) closure/cover values in these stands would result in denser, possibly fire-prone stands.”

The **problems** are as follows: First, as the effects of a century of fire suppression and warming climate make large wildfires more common in California, additional measures are necessary to replicate the effects of low-intensity wildfire; the control of small trees and other species that are not fire-resilient, the limitation of fuel loads, and the maintenance of an open forest with limited canopy closure. Streamlined permitting for these management measures was previously authorized by the Legislature under the Forest Fire Prevention Exemption, and regulations related to this permitting pathway. January 1st, 2025, the Forest Fire Prevention exemption was modified per AB 2276 and renamed as the Forest Resilience Exemption. Additionally, the AB 2276 streamlined the permitting requirements for the management of oak woodlands and associated grasslands, as authorized by the Legislature under the Oak Woodland Exemption. This Oak Woodland Exemption was limited in its use based on maximum size for encroaching conifers to be removed from the grove, means of measuring tree diameter,

and permissions for use to specific forest districts. These requirements limited the efficacy of the exemption and prohibited its use in the southern part of the state.

The **purpose** of this rule plead is to finalize permit rule language adopted in AB 2276 and provide clarification to the rule text addressing canopy cover and diameter breast height requirements for the use of the exemption's notices. This language provides clear regulatory standards which provides Professional Foresters the understanding on when the exemptions may be utilized within a forested landscape and provides environmental protection for the natural resources within areas of operations. Additionally, the rule plead provides clear enforceable standards for the enforcing agency assuring the protection of natural resources.

The **effect** of the rule plead will be access to two tools to promote streamlined management of California's forests: the Oak Woodland Exemption, which allows for the removal of conifers from stands historically dominated by oaks; and the Forest Resilience Exemption, which allows for management to 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.

The **benefit** of the rule plead is the preservation of oak woodlands which are being converted to conifer stands by a lack of the historic periodic fire and cultural management of those ecosystems and the promotion of forests that are more resilient to catastrophic wildfire due to management so that the fuels within the forests are not connected in a way that promotes the spread of landscape-level wildfires.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL (pursuant to GOV § 11346.2(b)(1)) AND THE RATIONALE FOR THE AGENCY'S DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSE(S) OF THE STATUTE(S) OR OTHER PROVISIONS OF LAW THAT THE ACTION IS IMPLEMENTING, INTERPRETING OR MAKING SPECIFIC AND TO ADDRESS THE PROBLEM FOR WHICH IT IS PROPOSED (pursuant to GOV §§ 11346.2(b)(1) and 11349(a) and 1 CCR § 10(b)). *Note: For each adoption, amendment, or repeal provide the problem, purpose and necessity.*

The Board is proposing action to amend 14 CCR §§ 895, 895.1, 1038, 1038.3 and 1038.4.

Amend § 895. Abbreviations

The proposed language updates the explanation for the abbreviation for "d.b.h." to reflect standard practice for measuring this value. The problem is that the current explanation of "d.b.h." does not reflect the information provided in most reference books, which note that diameter at breast height should be measured on the uphill side of the tree. The purpose of this change is to make the explanation reflect common use of the phrase. This is necessary to standardize use of the term for forest management

and the enforcement of Forest Practice Regulations. The Forest Resilience exemption uses d.b.h. as an enforcement measure, instead of stump diameter, so standardization of the term for enforcement is necessary.

Amend § 895.1. Definitions

The proposed language updates the definition to “Diameter” to reflect standard practice for measuring this value. The problem is that the current definition of “Diameter” does not reflect the definition used in most reference books, which note that diameter at breast height should be measured on the uphill side of the tree. The purpose of this change is to make the definition reflect common use of the phrase. This is necessary to standardize use of the term for forest management and the enforcement of Forest Practice Regulations. The Forest Resilience exemption uses diameter as an enforcement measure, instead of stump diameter, so standardization of the term for enforcement is necessary.

Amend 14 CCR § 1038

The proposed action amends subdivision (e) to reflect changes in the maximum tree diameter, the lands with appropriate ecosystems where the exemption can be used, means of measuring diameter (stump height versus breast height), and restrictions which previously excluded the use of the subdivision within the Southern Sub District of the Coast Forest District and the Southern Forest District as permitted by the authorizing statute in PRC § 4582. The problem is that current regulatory text does not reflect the permissions and requirements set by the authorizing statute. The purpose of the proposed action is to modify those sections of the Oak Woodland Exemption to reflect the specifications of the authorizing statute. This amendment is necessary to reflect the changes to the statute in the regulatory text and provide interim input from the Board on those aspects where the Legislature granted Board discretion.

The proposed action clarifies the statutorily-defined requirement that the Registered Professional Forester (RPF) consult the Director of CAL FIRE prior to submitting a notice of exemption if there are plans to fell any trees larger than 30 inches dbh by directing the RPF to contact the local CAL FIRE Unit Forester and include the results of the consultation in the explanation and justification for harvesting the large tree in the requirements clarifying why removal of this tree are necessary to maintain an oak stand under § 1038 (e)(3)(A) The problem is that a mechanism for appropriate notification of the review agency is necessary for review of potential impacts from this Notice of Exemption. The purpose of the amendment is to provide RPFs with clear information on how to contact CAL FIRE for consultation on harvest of trees with a dbh over 30” prior to submission of a Notice of Exemption, and how to appropriately document that consultation has occurred. This amendment is necessary to clarify the process by which RPFs can consult with CAL FIRE prior to the harvest of trees with a dbh over 30” under this notice of exemption.

The proposed action removes minimum post-harvest basal area retention standards for California black and Oregon white oak from §1038(e)(4)(B) given the requirement for minimum pre-harvest basal area of California black and Oregon white oak on lands that

qualify for this notice of exemption in § 1038 (e)(2)(C)(1) and the requirement for retaining 80% of the pre-harvest basal area of California black and Oregon white oak post-harvest in §1038(e)(4)(A). The problem is that current regulatory requirements state that the minimum pre-harvest basal area of selected oak species and the minimum post-harvest basal area of selected oak species are both required to be greater than 35 square feet, while trees may die due to disturbance after harvest or to unrelated causes during the period where the Notice of Exemption is active. The purpose of this amendment is to remove potentially conflicting requirements for forest management. This is necessary to provide an efficient pathway to allowing oak woodland restoration.

Amend 14 CCR § 1038.3

The proposed action amends 14 CCR § 1038.3 to reflect the changes to PRC § 4584 per AB 2276. This section changes the name of the exemption to the Forest Resilience Exemption and modifies regulatory requirements and qualifying criteria for this exemption. The purpose of this amendment is to reflect the changes to the statute in the regulatory text and provide interim input from the Board.

Changes include:

1. Title change, from “Forest Fire Prevention Exemption” to “Forest Resilience Exemption”.
2. Update text from “cutting and removal” to “harvesting”.
3. Updates 14 CCR § 1038.3(b) to reflect fire hazard severity zones instead of “fire hazard threat areas”.
4. Within 14 CCR § 1038.3(c), the acre limitation on the exemption is expanded from 300 acres to 500 acres.
5. Within 14 CCR § 1038.3(d)(3), there is an added requirement that slash and woody debris created by operations must be treated within 50 feet of public roads or critical infrastructure. The Board was granted authority to define “critical infrastructure” and has chosen the same definition as the California Emergency Services Act (GOV § 8592.30(a)) with specific examples from the Forest Practice Rules. This rule change is necessary to ensure that critical infrastructure has additional protections if threatened by wildfire by limiting adjacent ground fuels.
6. Within 14 CCR § 1038.3(e), the limitation on the maximum tree size that can be removed for temporary road construction or reconstruction is changed to 30 inches diameter at breast height instead of 36 inches diameter at stump height.
7. Within 14 CCR § 1038.3(h), the limitation on the maximum tree size that can be removed was changed to reflect diameter at breast height instead of diameter at stump height.
8. Changes to 14 CCR § 1038.3(i) define separate post-harvest retention standards for trees in separate forest districts, creating one standard for the Coast Forest District and another for the Northern and Southern Forest Districts.
9. The addition of 14 CCR § 1038.3(k) requires that the six largest trees per acre within the boundary of the Notice of Exemption be retained.
10. The addition of 14 CCR § 1038.3(l) requires that no trees of the genus *Quercus*

greater than 22 inches diameter at breast may be harvested, unless those trees pose a safety threat.

11. The addition of 14 CCR § 1038.3(m) requires that the post-harvest composition of tree species shall be representative of the pre-harvest stand conditions. The Registered Professional Forester (RPF) can explain changes in post-harvest composition if those changes will benefit forest health and resiliency.
12. Changes to 14 CCR § 1038.3(q) changes the language requiring a valid Tahoe Basin Tree Removal Permit from “must” to “shall”.
13. Changes to § 1038.3 (r) sets requirements for the Confidential Archaeological Letter that is to be submitted to the Department to be specific to the requirements of the confidential letter instead of the entire cited section.
14. Changes to 14 CCR § 1038.3(x), allow stocking standards to be met using selection stocking standards in addition to the current commercial thinning stocking standards. It adds minimum stocking levels, requires the RPF to identify the stocking standard used, and specifies which information is required to substantiate the stocking standard.
15. Changes to 14 CCR § 1038.3(aa), updating the date that this section expires to January 1, 2031

The problem is that current regulatory text does not reflect the permissions and requirements set by the authorizing statute. The purpose of the proposed action is to modify those sections of the Forest Resilience Exemption to reflect the changed specifications of the authorizing statute. This amendment is necessary to reflect the changes to the statute in the regulatory text and provide interim input from the Board on those aspects where the Legislature granted Board discretion.

The amended rule text has several changes that are necessary either to address statutory changes or required updates that grant the Board explicit direction to make discretionary updates.

Changes to the rule text under 1038.3 adds an option to notify the Director of the termination of operations and requires that exemption notices authorized by this section not have harvest areas that geographically overlap with the harvest area of another Plan excluding an NTMP or WFMP. The problem is that the Forest Resilience exemption notice has permit compliance requirements that vary from the requirements of other exemption notices such as the exemption for the removal of dead, dying, or diseased trees. The purpose of these amendments is to allow consistent enforcement of the Forest Practice Rules under the applicable exemption, while allowing landowners and RPFs to respond rapidly to mass tree mortality events. This is necessary because the standards of the permits differ, so the standards of different types of notices of exemption cannot apply to the same property at the same time.

The amended rule text under § 1038.3(d)(2) adds slash and woody debris (defined terms that apply to larger post-harvest fuels) as post-harvest material that must be removed around an approved and legally permitted structure, instead of the smaller “surface fuels”. It also clarifies application of those requirements to the statutorily

required changes to fuels treatment around public roads and critical infrastructure. It specifies treatment of slash, woody debris, and surface fuels throughout the forest, as well as specific requirements for additional fuels treatment for areas adjacent to approved and legally permitted structures, public roads, and critical infrastructure. The problem is that the original regulatory text had one set of standards for the forest as a whole regarding treatment of larger fuels (slash and woody debris), and set another standard for treatment of small debris near structures. The purpose of the amendment is to clarify that treatment of larger fuels is required throughout the harvest area, including around the newly adopted requirements for public roads and critical infrastructure. This is necessary to protect structures, public roads, and critical infrastructure from high-intensity wildfire.

The proposed action clarifies the statutorily-defined requirement that the Registered Professional Forester (RPF) consult the Director of CAL FIRE prior to submitting a notice of exemption if there are plans to fell any trees larger than 30 inches dbh by directing the RPF to contact the local CAL FIRE Unit Forester and submit the results of the consultation to CAL FIRE. The problem is that a mechanism for appropriate notification of the review agency is necessary for review of potential impacts from this Notice of Exemption. The purpose of the amendment is to provide RPFs with clear information on how to contact CAL FIRE for consultation on harvest of trees with a dbh over 30" prior to submission of a Notice of Exemption, and how to appropriately document that consultation has occurred. This amendment is necessary to clarify the process by which RPFs can consult with CAL FIRE prior to the harvest of trees with a dbh over 30" under this notice of exemption.

The proposed action adds 14 CCR § 1038.3(j), which adopts specific regulations for the removal of dead and dying trees in amounts less than 10 percent of the average volume per acre. It introduces an exception to the 30-inch dbh limitation to allow the harvest of larger dead or dying trees up to 36 inches dbh. This option limits harvest of these trees to 10% of the total volume harvested, requires marking of all trees to be harvested, and requires that the RPF consult with CAL FIRE before harvesting trees that meet these standards. The Board was granted authority to allow for the harvest of up to 10% of these large dead and dying trees by statute. The proposed action requires the RPF to take into account safety, fuel hazard abatement, mortality capture, and the adequacy and retention of wildlife trees for habitat per 14 CCR Subchapters 4, 5, and 6, Article 9. Statutory requirements that the Board consider the standards of enforceability for the department are achieved by requiring that the RPF consult with their local CAL FIRE Unit Forester and submit written documentation of the consultation to CAL FIRE before submission of the Notice of Exemption, including the date, contact person, and a summary of the consultation. The problem is that other notices of exemption that allow for the harvest of dead and dying trees have conflicting requirements with the Forest Resilience Exemption, and so cannot overlap for environmental protection and enforcement purposes. The purpose of this change is to allow for the removal of dead and dying trees which might promote the spread of wildfire or forest pests under the Forest Resilience Exemption, while ensuring that there is a clear path to consultation with CAL FIRE. This is necessary to prevent the spread of wildfire and forest pests,

while ensuring that there are clear guidelines for compliance with the requirements of the Rules.

Changes to 14 CCR § 1038.3(n) modify the minimum requirements for post-harvest canopy to be forty percent for redwood forest types, thirty percent on all other forest types, and no minimum requirement for areas where the dominant and codominant trees have a d.b.h. fourteen inches or smaller. It also requires that these standards be met for “approximately” eighty percent of the harvest area instead of “at least” eighty percent of the harvest area. The Board was granted authority to set canopy values for this exemption. This change is necessary because current canopy requirements are high enough that they are the factor which restricts operations, instead of the limitations on tree and stem stocking, and because the prediction of post-harvest canopy cover is highly variable. This limits the removal of the vertical continuity of fuels, limiting the efficacy of an important landscape management tool for controlling catastrophic wildfires. The lack of requirements for forests dominated by small trees recognizes that these young forests are at an early seral stage, whether as a result of even-aged harvest or from prior loss of trees due to wildfire, disease, or insect kill, and are usually dominated by uniform populations of densely packed tree stems where harvest will result in a significant but temporary loss of canopy cover. These forests are those which most need management to reduce the vertical and horizontal continuity of fuels and limit the extent of catastrophic wildfire. The problem is that previous canopy cover requirements for the Forest Fire Prevention Exemption were a limiting factor for the use of the exemption due to the variability in post-harvest canopy cover. The purpose of this amendment is to allow for greater removal of fuels within forests. This is necessary to limit the extent of wildfires in forested lands.

The amended rule text under § 1038.3(bb) requires that within 24 months of the effective date of the permanent rulemaking and biannually thereafter that the Board review data from CAL FIRE Unit Foresters to assess the implementation of this exemption, and determine whether the regulatory text is promoting fire, pest and disease resilience, environmental protection, and forest health. The problem is that stakeholders have raised concerns about potential misuse of discretionary aspects of these regulations, including canopy cover requirements. The purpose of this amendment is to promote consideration of the use and applicability of the regulatory text at several points in the coming years. This is necessary to assure review and adaptation of the regulatory text to potential unforeseen issues.

Amend 14 CCR § 1038.4

The proposed action also amends 14 CCR § 1038.4, identifying that the mapping standards in this regulatory section apply to the Forest Resilience Exemption. This action removes the name Forest Fire Prevention Exemption and inserts the name of the Exemption to reflect the changes to PRC § 4584. This is necessary to accurately identify the mapping standards for the Forest Resilience Exemption.

Non substantiative amendments

Capitalized and updated terms defined pursuant to 14 CCR § 895.1 throughout the amendments where appropriate and made minor grammar corrections and numbering updates throughout. Updated “Forest Fire Prevention Exemption” to “Forest Resilience Exemption” throughout.

ECONOMIC IMPACT ANALYSIS (pursuant to GOV § 11346.3(b)(1)(A)-(D) and provided pursuant to 11346.3(a)(3))

The **effect** of the proposed action facilitates management of oak woodlands and limits the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns by facilitating reduction of the horizontal and vertical continuity of fuels. These regulations will provide a comprehensive regulatory scheme which allows for the clear and consistent application and enforcement of the Forest Practice Rules. The addition of the proposed regulation does not impose additional regulatory burdens on individuals or businesses which choose to engage in the discretionary timber harvesting permitting process provided by the proposed regulations. There are no potential economic impacts associated with this proposed action.

Creation or Elimination of Jobs within the State of California

The proposed action does not mandate any action; rather, it creates a discretionary timber harvesting process. The proposed action does not impose additional regulatory burden on individuals or businesses which choose to engage in the discretionary timber harvesting permitting process provided by the proposed regulations. There is no creation or elimination of jobs within the State of California expected as a result of the proposed action.

Creation of New or Elimination of Businesses within the State of California

The proposed action allows for streamlined management of oak woodland ecosystems management of the rate of the vertical and horizontal continuity of fuels within forests. These regulations as written will provide a comprehensive regulatory scheme which allows for the clear and consistent application and enforcement of the Forest Practice Rules. The proposed action creates a discretionary timber harvesting permitting process which does not impose additional requirements on individuals and businesses that do not choose to use it. There is no creation or elimination of businesses within the State of California expected as a result of the proposed action.

Expansion of Businesses Currently Doing Business within the State of California

The proposed action represents a continuation of existing forest practice regulations. The proposed action does not impose additional regulatory burden on individuals or businesses which choose to engage in the discretionary timber harvesting permitting process provided by the proposed regulations. There is no expansion or contraction of businesses within the State of California expected as a result of the proposed action.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The **benefit** of the proposed action is rules that accommodate the changing conditions of California timberlands, and the conservation of public trust resources through fuel hazard reduction, more resilient forests, preservation and management of oak woodland ecosystems and related cultural, ecosystem, and biodiversity benefits, and the reduction in risk to life, property, and the environment posed by catastrophic wildfire by streamlining the maintenance of oak woodlands and the creation and maintenance of forests so that the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns is reduced.

Business Reporting Requirement (pursuant to GOV § 11346.5(a)(11) and GOV § 11346.3(d))

The proposed action does not impose any reporting requirement.

STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)-(D)**. The proposed action:

- Will not create jobs within California (GOV § 11346.3(b)(1)(A)).
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A)).
- Will not create new businesses (GOV § 11346.3(b)(1)(B)).
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B)).
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C)).
- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)). The proposed action will affect the health and welfare of California residents by providing additional options for fuel treatment; aiding the management of oak woodlands and forests; and creating forest more resilient to wildfire. Greater forest resilience across the landscape will reduce fire intensity slowing the spread of fire through California forests. By reducing the fire intensity in treated zones, it will provide for firefighter safety and protection to communities, improving worker and public safety. This adoption will provide clarity and enforceability, resulting in improved environmental outcomes, yielding non-monetary benefits in accordance with GOV § 11346.3(b)(1)(D).
- **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT RELIED UPON (pursuant to GOV SECTION 11346.2(b)(3))**

Agee, J. K., & Skinner, C. N. (2005). Basic principles of forest fuel reduction treatments. *Forest ecology and management*, 211(1-2), 83-96.

Board of Forestry and Fire Protection Annual Report, Board of Forestry and Fire Protection, 2023.

California Department of Forestry and Fire Protection, Forest Fire Prevention, or Forest Resiliency? Monitoring Report on the §1038 Forest Fire Prevention Exemption, November 8, 2022.

Cocking, M. I., Varner, J. M., & Sherriff, R. L. (2012). California black oak responses to fire severity and native conifer encroachment in the Klamath Mountains. *Forest Ecology and Management*, 270, 25-34.

Deal, R. (2018). Dictionary of forestry. *The Society of American Foresters Dictionary of forestry. 2nd edition. Bethesda, MD. 208p.*

Schrifer, M., Sherriff, R. L., Varner, J. M., Quinn-Davidson, L., & Valachovic, Y. (2018). Age and stand structure of oak woodlands along a gradient of conifer encroachment in northwestern California. *Ecosphere*, 9(10), e02446.

Valachovic, Y., Quinn-Davidson, L., & Standiford, R. B. (2015). Can the California forest practice rules adapt to address conifer encroachment?. *Gen. Tech. Rep. PSW-GTR-251. Berkeley, CA: US Department of Agriculture, Forest Service, Pacific Southwest Research Station: 515-520, 251, 515-520.*

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION CONSIDERED BY THE BOARD, IF ANY, INCLUDING THE FOLLOWING AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES (pursuant to GOV § 11346.2(b)(4)(A) and (B)):

- **ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACTS ON SMALL BUSINESS AND/OR**
- **ALTERNATIVES THAT ARE LESS BURDENSOME AND EQUALLY EFFECTIVE IN ACHIEVING THE PURPOSES OF THE REGULATION IN A MANNER THAT ENSURES FULL COMPLIANCE WITH THE AUTHORIZING STATUTE OR OTHER LAW BEING IMPLEMENTED OR MADE SPECIFIC BY THE PROPOSED REGULATION**

Pursuant to **GOV § 11346.2(b)(4)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternative 1: No Action Alternative

The Board considered taking no action, but this alternative was rejected because it would not address the problem.

Alternative #2: Make only those changes required by statute

The Board considered making only those changes specifically required by statute, but this alternative was rejected because it caused numerous issues with clarity, internal consistency with the rules, and enforcement issues for CAL FIRE and the other review team agencies.

Alternative #3: Proposed Action

Alternatives 1 and 2 would not be more effective or equally effective while being less burdensome or impact fewer small businesses than the proposed action. Specifically, Alternatives 1 and 2 would not be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures the promotion of resilient forests and the management of oak woodlands.

Additionally, Alternatives 1 and 2 would not be more effective in carrying out the purpose for which the action is proposed and would not be as effective and less burdensome to affected private persons than the proposed action or would not be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action. Further, none of the alternatives would have any adverse impact on small businesses.

Prescriptive Standards versus Performance Based Standards (pursuant to GOV §§11340.1(a), 11346.2(b)(1) and 11346.2(b)(4)(A)):

Pursuant to **GOV §11340.1(a)**, agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process.

The proposed action is as prescriptive as necessary to address the problem and contain a mix of performance-based and prescriptive requirements. These options for timber harvest are optional pathways for forest management. Prescriptive requirements are either drawn directly from statute or are necessary to provide adequate clarity within the regulations and provide for effective and enforceable operational standards allowing for forest management while providing clear regulatory guidelines for the used of these notices of exemption.

Pursuant to **GOV § 11346.2(b)(1)**, the proposed action does not mandate the use of specific technologies or equipment.

Pursuant to **GOV § 11346.2(b)(4)(A)**, the abovementioned alternatives were considered and ultimately rejected by the Board in favor of the proposed action. The proposed action does not mandate the use of specific technologies or equipment, but does prescribe specific actions.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE RELIED UPON TO SUPPORT INITIAL DETERMINATION IN THE NOTICE THAT THE

PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS (pursuant to GOV § 11346.2(b)(5))

The fiscal and economic impact analysis for these amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience practicing forestry in California that the Board brings to bear on regulatory development.

The effect of the proposed action is a clarification and extension of existing state forest practice law. The clarifications and timing extensions provided by the proposed action do not impose additional regulatory burden on individuals or businesses which choose to engage in the timber harvesting permitting process by the proposed regulations. There are no potential economic impacts associated with the proposed action.

The proposed action will not have a statewide adverse economic impact directly affecting businesses as it does not impose any requirements on businesses.

DESCRIPTION OF EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATION (pursuant to GOV § 11346.2(b)(6))

The Code of Federal Regulations has been reviewed and based on this review, the Board found that the proposed action neither conflicts with, nor duplicates Federal regulations. There are no comparable Federal regulations related to conducting Timber Operations on private, state, or municipal forest lands.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS CEQA

CEQA requires review, evaluation and environmental documentation of potential significant environmental impacts from a qualified Project. Pursuant to case law, the review and processing of Plans has been found to be a Project under CEQA.

Additionally, the Board's rulemaking process is a certified regulatory program having been certified by the Secretary of Resources as meeting the requirements of PRC § 21080.5.

While certified regulatory programs are excused from certain procedural requirements of CEQA, they must nevertheless follow CEQA's substantive requirements, including PRC § 21081. Under PRC § 21081, a decision making agency is prohibited from approving a Project for which significant environmental effects have been identified unless it makes specific findings about alternatives and mitigation measures

Further, pursuant to PRC § 21080.5(d)(2)(B), guidelines for the orderly evaluation of proposed activities and the preparation of the Plan or other written documentation in a

manner consistent with the environmental protection purposes of the regulatory program are required by the proposed action and existing rules.

The proposed action represents clarification of the state's existing comprehensive Forest Practice Program, under which all commercial timber harvest activities are regulated, through the adoption of additional established environmental protection measures. The Rules which have been developed to address potential impacts to forest resources, including both individual and cumulative impacts, project specific mitigations along with the Department oversight (of rule compliance) function expressly to prevent the potential for significant adverse environmental effects.

The proposed action utilizes largely extant requirements for timber operations to clarify the operational requirements for the use of notices of exemption to manage oak woodlands and to promote the creation of forests that have limited vertical continuity of vegetative fuels and 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.

Please see discussion of individual provisions within "Specific Purpose Of Each Adoption, Amendment Or Repeal (Pursuant To Gov § 11346.2(B)(1)) And The Rationale For The Agency's Determination That Each Adoption, Amendment Or Repeal Is Reasonably Necessary To Carry Out The Purpose(s) Of The Statute(s) Or Other Provisions Of Law That The Action Is Implementing, Interpreting Or Making Specific And To Address The Problem For Which It Is Proposed (Pursuant To Gov §§ 11346.2(B)(1) And 11349(A) And 1 CCR § 10(B))" for additional information related to these protection measures.

Pursuant to 14 CCR § 896(a), it is the Board's intent that no Plan shall be approved which fails to adopt feasible mitigation measures or alternatives from the range of measures set out or provided for in the Rules which would substantially lessen or avoid significant adverse impacts which the activity may have on the environment.

Once Plans are approved, state representatives continue with compliance inspections of approved Plans until the conclusion of the Plan's lifespan. Where the Rules or approved Plan provisions have been violated, specified corrective and/or punitive enforcement measures, including but not limited to financial penalties, are imposed upon the identified offender(s).

In summary, the proposed action does not have the potential to result in significant adverse environmental effects and therefore no alternative or mitigation measures are proposed to avoid or reduce any significant effects on the environment (14 CCR §15252(a)(2)(B)).