

Board of Forestry and Fire Protection

INITIAL STATEMENT OF REASONS

“Points of Light: Minor Rule Updates for Clarity and Consistency 2025”

Board of Forestry and Fire Protection

Title 14 of the California Code of Regulations

Division 1.5, Chapter 4 Subchapter 1,4,5,6, and 7 Article 2

Amend § 895.1, 915.3, 919.3, 929.4, 1034, 1090.5, 1094.6, 1104.1

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, Public Resourced Code (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.

PRC § 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 § 4582(f) requires the disclosure of special provisions to protect unique areas within the area of Timber Operations. The proposed amendments to archaeological training requirements in 14 CCR § 929.4 ensure that personnel are adequately equipped to identify and protect these unique cultural resources.

PRC § 4593 and § 4597 necessitates standardized mapping and administrative requirements across various permit types, consistent with the Board’s authority to regulate Nonindustrial Timber Management Plans (PRC § 4593 *et seq.*) and Working Forest Management Plans (PRC § 4597 *et seq.*)

PRC § 21080.5 puts forward the Board’s rulemaking process as a certified regulatory program pursuant to PRC § 21080.5, and the proposed amendments have been developed to ensure continued compliance with the substantive requirements of the California Environmental Quality Act (CEQA).

This rule package addresses several inconsistencies in the rules that do not meet the standards for a Section 100 rulemaking, but are limited enough in scope that they have minimal impact on other parts of the Rules.

The amendment to 14 CCR § 895.1 regarding wildlife terminology is necessary to resolve a significant conflict between Board regulations and the California Department of Fish and Wildlife (CDFW). Currently, the use the term “Species of Special Concern” in the Forest Practice Rules (Rules) is an undefined term that is equivalent to “Sensitive Species pursuant to 14 CCR § 895.1. Additionally, the term “Species of Special Concern” overlaps with a category managed by CDFW, which creates confusion for the regulated public and Department staff during the preparation and review of timber harvesting documents. The term “Species of Special Concern” is replaced with “Sensitive Species pursuant to 14 CCR § 895.1”, but the protections of the Board’s Sensitive Species are extended to those species of bird listed under state or federal Endangered Species Acts as well through the use of the existing term “Listed Species”. This change provides a clear and consistent regulatory framework that avoids inter-agency terminology conflicts while maintaining robust protections for at-risk wildlife.

In 2023, the American Ornithological Society divided the previous taxon of “Northern Goshawk” into Eurasian and North American species. The new taxon, the “American Goshawk”, encompasses all birds within California previously included under the name “American Goshawk”.

In alignment with PRC § 4582(f), which requires special provisions for the protection of unique areas, the establishment of an archaeological refresher course is necessary to provide an efficient administrative pathway for certification renewal. Existing rules require a five-year certification cycle but do not provide a mechanism for potential drift between dates when the course is offered, potentially resulting in the expiration of ability to perform archeological surveys and creating a necessity to repeat the full introductory training.

Finally, the standardization of mapping requirements for main ridge tops suitable for fire suppression across Timber Harvest Plans (THP), Non-industrial Timber Harvest Plans (NTMP), and Working Forest Management Plans (WFMP) permit types is necessary for unified fire safety planning. Pursuant to the Board’s authority to regulate these long-term management plans under PRC § 4593 and § 4597, consistent mapping is required to ensure that CAL FIRE has access to the critical spatial data needed for suppression efforts regardless of the specific permit type governing the land. Similarly, clarifying that conversion exemptions are synonymous with “Plans” for operational purposes and is necessary to ensure that all land management activities meet a uniform standard of resource protection to allow for consistent enforcement by the Department. The Rules currently only require the mapping of these ridgelines if they would require the felling of snags during fire suppression efforts.

The **problem:**

1. **Conflicting Wildlife Terminology:** Currently, the Rules use the term “Species of Special Concern,” as a term equivalent to “Sensitive Species pursuant to 14 CCR § 895.1” which conflicts with a specific legal definition used by CDFW for a different category of at-risk species. This creates regulatory uncertainty for the regulated public.
2. **Outdated Technical References:** The definition of “Danger Tree” currently references a 1977 field guide that has been superseded by the 2021 California Power Line Fire Prevention Field Guide .
3. **Archaeological Training Gaps:** While the rules require archaeological training, there is currently no explicit provision for variation in the ability to take a refresher course during the year where five-year certifications expire.
4. **Mapping Inconsistencies:** Requirements for mapping main ridge tops suitable for fire suppression for THP, NTMP, and WFMP are technically only required if fire suppression on that ridge will require the felling of snags.

The **purpose**: The purpose of this rulemaking is to align Board definitions with current state and federal standards while updating outdated technical citations to reflect modern field guidelines. It seeks to provide clear administrative pathways for professional certification renewal and ensure clear mapping requirements across all types of harvesting permits. Additionally, the action aims to resolve specific terminological inconsistencies with the CDFW to provide a unified and predictable regulatory framework for the regulated public.

The **effect** of the proposed action will standardize wildlife protection terminology and reflect an updated species name. It modernizes safety protocols by updating the "Danger Tree" definition to current technical standards and defining which ridges should be mapped for fire suppression efforts. Furthermore, it provides clarity on expiration timelines for archeological training.

The **benefit** of the amended language will increase the clarity and consistency of the Rules, promote more efficient implementation, and ensure that the regulated public can continue to use effective tools for managing at-risk wildlife species.

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 §§ 895.1, 915.3, 919.3, 929.4, 1034, 1090.5, 1094.6, 1104.1

Amend § 895.1 Definitions

The proposed action updates the definition of “Danger Tree” to reference the 2021 California Power Line Fire Prevention Field Guide and replaces the term “Species of Special Concern” with “Sensitive Species pursuant to 14 CCR § 895.1” within the definitions for “Critical Period,” “Nest Site,” “Perch Tree,” “Replacement Tree,” and “Screening Trees”. This amendment is necessary to ensure that technical safety standards reflect modern field practices and to resolve an erroneous use of the term “Species of Special Concern” within the Rules; the defined term is “Sensitive Species pursuant to 14 CCR § 895.1”. This also resolve a terminology overlap with the CDFW, which uses a “Species of Special Concern” for a difference suite of species. By replacing uses of “Species of Special Concern” with “Sensitive Species pursuant to 14 CCR § 895.1”, the Board clarifies the confusion. In addition, to clarify that protections for the Board’s Sensitive Species – which are all avian – protection measures are extended to avian species that are listed as Rare, Threatened, or Endangered under state or federal law through the replacement of “Species of Special Concern” with “Sensitive Species pursuant to 14 CCR § 895.1” for “Critical Period”, “Nest Site”, “Perch Tree”, “Replacement Tree”, and “Screening Trees” thereby maintaining the regulated public’s ability to use effective management tools without regulatory ambiguity. Furthermore, the addition of the name of the American goshawk is updated to reflect taxonomic changes from the American Ornithological Society. The problem is that inaccurate naming creates confusion. The purpose of the amendment is to reflect accurate names. This is necessary for the clarity and consistency of the Rules.

The proposed action amends the citation for “Community Fuelbreak Area” to reflect the updated rule section for the definition of “defensible space”. The problem is that the referenced definition of “defensible space” is in a different subsection of the California Code of Regulations than the citation indicates. The purpose of the amendment is to update with an appropriate citation. This is necessary to maintain the clarity and consistency of the Rules.

Adopt §§ 915.3 (935.3, 955.3) Protection of Natural Resources

The proposed action amends the language regarding site preparation to replace “Species of Special Concern” with “Sensitive Species pursuant to 14 CCR § 895.1”. This amendment is necessary to maintain internal consistency within the Rules following the definitional changes in 14 CCR § 895.1. By standardizing this terminology, the Board ensures that natural resource protection measures during site preparation are clearly directed toward the correct biological categories, preventing on-the-ground confusion for RPFs and Licensed Timber Operators (LTOs).

Amend § 919.3 Specific Requirements for Protection of Nest Sites

The proposed action updates the species name for the Northern Goshawk to “American Goshawk”, in keeping with taxonomic changes from the American Ornithological Society.

Amend § 929.4 Archaeological Training Requirements

The proposed action adopts language establishing a timeline for taking a refresher course for the renewal of archaeological training certifications. This amendment is necessary because existing regulations require a five-year renewal of certification but the courses are offered at varied times throughout the year, so planning for the expiration of certification is complex. Establishing this pathway facilitates the continuous education of personnel responsible for identifying and protecting cultural resources, to ensure compliance with the Board's mandate to protect unique areas under PRC § 4582(f).

Amend §§ 1034, 1090.5, And 1094.6 Mapping Requirements

The proposed action standardizes mapping requirements across THP, NTMP, and WFMP by removing the requirement that, when identifying ridge tops suitable for fire suppression, only those that require snag felling must be mapped. This amendment is necessary to ensure consistent fire safety planning across harvesting permits, providing CAL FIRE with the critical spatial data needed for effective suppression efforts.

Amend § 1104.1 Conversion Exemptions

The proposed action clarifies that if there are multiple landowners or timber owners on a "notice of conversion exemption" then the information of all those parties must be included in the application. This amendment is necessary to eliminate any ambiguity regarding which parties must authorize operations conducted under a conversion exemption.

Non-Substantive Amendments

1. Capitalized and utilized terms defined pursuant to 14 CCR §895.1 and this Article throughout the amendments where appropriate.
2. Made lower-case terms which were capitalized but not proper-nouns or undefined within applicable regulation or are not used consistent with their regulatory definition.
3. Largely numbered or lettered un-numbered or un-lettered provisions.
4. Included written and Arabic numbers where they exist.
5. Improved grammar and spelling throughout.

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

The **effect** of this proposed action will increase the clarity and efficacy of the Rules by aligning terminology with other state agencies, updating technical safety references to current field guides, and standardizing administrative requirements across various permit types. The addition of these regulations does not impose additional regulatory burdens on individuals or businesses, as the amendments largely clarify existing procedures or update outdated citations. 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 clarifies the application of

existing rules regarding wildlife protection, archaeological training, and mapping. The proposed action does not impose additional regulatory burden on individuals or businesses which choose to engage in the discretionary timber harvesting permitting process. 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 amends regulatory language to resolve terminology conflicts and ensures that mapping standards for ridgeline fire suppression are consistently applied across all Plan types, including THPs, NTMPs, and WFMPs. This amended language is written to provide clear regulatory requirements, allowing for consistent application of enforcement and resource protection. The proposed action provides clarifying language and does not impose additional requirements on individuals and businesses that would affect the viability of existing firms. 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 and refinement of existing forest practice regulations. By updating the "Danger Tree" definition to the 2021 field guide, the Board ensures that businesses engaged in utility line clearing and fire prevention are using the most current safety standards. The proposed action does not impose additional regulatory burden on individuals or businesses which choose to engage in the discretionary timber harvesting permitting process. 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 amended language allows for increased clarity and consistency in the Rules, promoting more efficient implementation and enforcement of environmental protections. By aligning terminology with CDFW, the proposed action ensures that listed species are managed under a consistent framework, which reduces regulatory confusion and improves overall habitat outcomes. Worker safety is also enhanced by updating the reference guide for "Danger Trees" to the 2021 edition, ensuring that forest workers and utility personnel utilize the latest safety protocols for identifying hazardous trees during operations. No impact to the health and welfare of California residents is anticipated.

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 would result in increased clarity and efficacy in the Rules, particularly regarding wildlife protection terminology and archaeological training, and as a result, promote more efficient implementation and enforcement of the regulations. This adoption will provide clarity and enforceability, resulting in improved environmental outcomes and administrative transparency, yielding nonmonetary 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))

The Board relied on the following list of technical, theoretical, and/or empirical studies, reports, or similar documents to develop the proposed action:

1. **California Power Line Fire Prevention Field Guide**, Board of Forestry and Fire Protection, 2021.
2. **Board of Forestry and Fire Protection Annual Report**, Board of Forestry and Fire Protection, 2024.
3. Chesser, R. T., Billerman, S. M., Burns, K. J., Cicero, C., Dunn, J. L., Hernández-Baños, B. E., ... & Winker, K. (2023). **Sixty-fourth supplement to the American Ornithological Society's check-list of North American birds**. *Ornithology*, 140(3), ukad023.

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: Performance-Based Standards

This action would require the Board to develop performance-based standards for archaeological certification. However, this alternative was rejected because it would lack the predictability and clarity provided by established training refresher timelines. Additionally, without a prescriptive refresher course, archaeological certifications might lapse, leading to delays in timber operations.

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, which are to provide clarity, update technical guides, and resolve terminological conflicts. 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.

The proposed action is as prescriptive as necessary to address the problem and contains a mixture of performance-based and prescriptive requirements. The timeline of the archaeological refresher course is necessary to provide adequate clarity within the regulations and provide for effective and enforceable operational standards. These prescriptions ensure that environmental and cultural resource protection is achieved through clear, objective criteria that minimize the need for subjective site-by-site interpretations.

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 primarily a clarification and update of existing state forest practice regulations. These clarifications and technical updates do not impose additional regulatory burden on individuals or businesses, and thus, there are no potential economic impacts associated with the proposed action.

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 the specific Board-sensitive species protections or archaeological training requirements for state and private timberlands.

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 meeting the requirements of PRC § 21080.5.

The proposed action represents a clarification and refinement of the state's existing comprehensive Forest Practice Program through the adoption of established environmental protection measures, such as specific nest site protections. The amended language has been developed to address potential impacts to forest resources, specifically resolving terminology conflicts to ensure that wildlife protection measures are appropriately targeted and enforceable.

The proposed action does not change any existing operational rules in a way that would decrease environmental protection; rather, it updates technical guides and administrative training to ensure resource protection is conducted using the most current information and certified expertise.

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)).