

**BOARD OF FORESTRY AND FIRE PROTECTION**

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California Dept. of Food and Agriculture  
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**RE: Revised Notice of Preparation of a Draft Program Environmental Impact Report (PEIR)**

The California Board of Forestry and Fire Protection (Board) appreciates the opportunity to comment on the Revised Notice of Preparation of a Draft PEIR dated April 27, 2017. The Board represents the state's interests in forest resources on private and state lands, and determines, establishes, and maintains forest policy for the state. The Board acts under the mandate of state law to promulgate regulations as they pertain to issues such as, but not limited to, forest management on non-federal timberlands within California, land use regulations supporting fire prevention and fire suppression activities within the State Responsibility Area (SRA), and the licensing of the professional practice of forestry by Registered Professional Foresters (RPF).

Additionally, Health and Safety Code § 11362.769 states that indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. The Board, through the California Forest Practice Rules (FPRs), maintains an existing set of regulations that addresses potential impacts to timberland resilience and productivity, wildlife and fisheries habitat, and water quality. The FPRs are promulgated by the Board, taking into consideration the public need for high quality forest products, watershed protection, aesthetic and recreational enjoyment, fisheries and wildlife habitat, and the continued sequestration of atmospheric carbon dioxide. Therefore, the Board recommends that § 8313 of the draft regulatory proposal include reference to the Board of Forestry and Fire Protection.

The Board offers the following comments regarding resource protection concerns within forested landscapes from medical or recreational cannabis cultivation that should be considered in the preparation of the PEIR.

**Increase in risk and hazard for wildfire in the SRA**

Pursuant to Public Resources Code (PRC) § 4125, the Board has been granted the authority to classify lands in the state as State Responsibility Area (SRA) for the purposes of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. SRA includes lands covered wholly or in part by forests or trees capable of producing forest products, lands covered by vegetation that protects sources of water, and lands used principally for range or forage purposes.

*The Board's mission is to lead California in developing policies and programs that serve the public interest in environmentally, economically, and socially sustainable management of forest and rangelands, and a fire protection system that protects and serves the people of the state.*

Over 90% of the wildfires that occur on SRA land are human caused, and an increase of human presence in the SRA increases the risk of wildfires. This is of particular concern given the effects of increasing temperature regimes and an ever-lengthening fire season. Many indoor and outdoor grow operations and cultivation sites occur in wildland areas of the SRA that historically were sparsely populated. With the legal permitting of medical and recreational uses of cannabis, the Board is concerned that the level of cannabis cultivation in the SRA will continue to increase. The PEIR should analyze the potentially significant environmental impacts arising from the increased risk and occurrence of wildfires, as well as impacts to the health and welfare of fire suppression personnel from extended and repeated exposure to wildfire. Additionally, an analysis should be conducted on the ability of local and/or state fire protection services to respond to the elevated number of emergency incidents that may result from an increased level of permanent and/or transient habitation within the SRA.

### **Fire Safe Development and Defensible Space**

Existing operators applying for permits who are currently not in good standing with a local jurisdiction (see proposed § 8107) may not have closely followed state standards for development in the SRA. The SRA Fire Safe Development Standards (14 CCR Division 1.5, Chapter 7, Subchapter 2, Articles 1-5) apply to residential, commercial, and industrial construction in the SRA, including the construction of accessory buildings, mobile homes, and other non-permanent structures. These laws provide for minimum wildfire protection standards, including basic emergency access, water supply requirements, signing and building numbers, and vegetation modification, for construction in the SRA. The Defensible Space laws applicable in the SRA (14 CCR § 1299 *et. seq.*) require vegetation treatment around buildings and structures intended to support the protection of persons or animals to reduce the likelihood of burning vegetation igniting homes and other property.

Together, the SRA Fire Safe Development Standards and the Defensible Space laws address the impact of increased human development on wildlands and reduce loss of life and property. They allow firefighters access to developments to protect them from turning into an ignition source that can perpetuate wildfires and increase the fire's impact on the environment. The PEIR should address the potential environmental impacts that may result from permitting existing non-conforming development that increases wildfire risk in the SRA, particularly addressing the impacts of non-compliance with setback requirements, vegetation clearance along roadways and driveways, defensible space, and roadway widths and turnout requirements.

### **Vegetation Treatment for Fuel Hazard Reduction**

Vegetation treatment for the purposes of fuel hazard reduction within forested landscapes to lessen the intensity of wildfire is an important management tool. Treatment options include commercial and pre-commercial thinning of forests, mechanical treatment such as mastication, and prescribed fire. The Board is concerned that the increased development and occupation of forested landscapes for commercial cultivation of cannabis will introduce significant challenges to implementation of vegetation treatment projects, resulting in a curtailed ability to achieve more fire resiliency throughout the state's forested environments. These challenges may include conflicting landowner goals or issues related to project implementation around permanent or non-permanent structures and their supporting infrastructure such as water, propane or electrical systems. The PEIR should consider the potential impacts that result from indoor and outdoor cultivation of cannabis in relation to the potential impediments to achieving the goals associated with vegetation treatment projects.

## **Conversion of Timberland**

Timberland, as defined in PRC § 4526, is allowed under Board rules and the Forest Practice Act to be converted from timberland to another legally compatible use as identified by local jurisdictions. Although a process for legal conversion of timberland does exist, it has been brought to the attention of the Board that illegal conversion of timberland supporting cannabis cultivation is rampant throughout the state. As identified under [Board Policy 0334.3 \(Land Availability\)](#), the Board opposes conversion of timberland to uses which preclude timber growing and harvesting on such privately owned timberland except where the public values to be achieved by such conversion exceed the public values derived from timber growing. Timberland Production Zones (TPZ), as designated in Government Code § 51104, is restricted to the growing and harvesting of timber or other compatible uses, such as outdoor recreation or grazing. Indoor or outdoor cultivation of cannabis within TPZ may result in forest fragmentation, loss of habitat, impacts to watershed products and removal of acres from producing of high quality timber products, as well as potentially hinder the manageability of adjacent timberlands due to conflicting landowner goals. Therefore, the PEIR should clearly describe how cannabis cultivation is a compatible use within lands designated as TPZ and analyze potential environmental impacts to the public trust resources provided by TPZ.

Timberland conversions conducted without complying with Board regulations and the Forest Practice Act are not assessed prior to forest clearing to determine if environmental impacts may occur, if the conversion is of *bona fide* intent, and if the public values achieved by the conversion would exceed those derived from the sustained growing and harvesting of timber. The PEIR should address the potential environmental impacts that may result from illegal conversion, as well as the potential impacts from the increased levels of legal conversion of timberland that may result upon adoption of these regulations.

## **Winter Period Use of Infrastructure**

Roads and watercourse crossings that are constructed, reconstructed and maintained within privately held forested landscapes of California are generally intended for periodic and seasonal use in association with forest management activities. Dramatic increases, both in terms of time of year and volume of use, that occur along seasonal road networks that were not intended to support cannabis cultivation activities may have significant environmental impacts. Without proper maintenance and upgrading, as required for timber operations under the Forest Practice Rules, concerns include, but are not limited to, dust borne particulate matter, erosion potential, sedimentation, destabilization of fills or unstable soils; these may lead to significant environmental impacts and should be analyzed within the PEIR.

In addition, applicants participating in this program who are not in good standing are likely to have unpermitted roadways that do not conform to state standards for residential, commercial, and industrial construction in the SRA (14 CCR § 1273.00 et seq). The PEIR should evaluate how this nonconforming road network, along with the increased number of people within in the wildland utilizing these roadways, will impact public safety and the increased risk of wildfire and subsequent environmental impacts and propose mitigations, if needed.

## **Carbon Sequestration**

The Global Warming Solutions Act (AB 32; Chaptered 2006) requires California to reduce greenhouse gas emissions to 1990 levels by 2020. The 2008 Climate Change Scoping Plan, the initial framework for implementing AB 32, and the 2014 Scoping Plan Update emphasize the important role forests play in achieving the state's greenhouse gas reduction goals. The forestry sector, as identified in the 2008

Climate Change Scoping Plan, is the only industrial sector that results in net sequestration of carbon. The increased rates of conversion of forests to non-forest uses to support cannabis cultivation activities and necessary mitigation measures should be considered in the environmental assessment of this project when analyzing the potential impacts to atmospheric carbon.

### **RPF Involvement in Assessment on Forest Resources**

Pursuant to the CEQA Guidelines, specifically 14 CCR § 15149, utilizing licensed professionals, including forestry professionals, is required in the preparation of technical documents that may be incorporated or relied upon in the analysis of potential impacts in the preparation of an Environmental Impact Report. The Board recommends the professional guidance of a RPF, or RPFs, in the preparation of the PEIR when assessing potential impacts, and developing mitigations of identified impacts, within state and private held forested landscapes within California.

The Board appreciates the broad outreach conducted by California Department of Food and Agriculture to garner agency input on the regulatory proposals and environmental analysis for the medical and recreational cultivation and track and trace program. The Board recommends that the PEIR should address the potential significant impacts associated with the previously mentioned categories of concerns and develop necessary mitigations for any impact that are identified. The Board appreciated the opportunity to comment and extends our assistance in the development in the PEIR and draft regulatory proposal.

Best Regards,



Matt Dias  
Executive Officer  
State Board of Forestry and Fire Protection