

**Board of Forestry and Fire Protection  
Title 14 of the California Code of Regulations**

**NOTICE OF PROPOSED RULEMAKING**

**“Commercial Species Definitions Amendments, 2013”**

[Published August 23, 2013]

**Title 14 of the California Code of Regulations (14 CCR):**

**Division 1.5, Chapter 4, Subchapter 1,**

**Article 1 – Abbreviations and Definitions**

**Amend:**

**§ 895.1 Definitions**

The California State Board of Forestry and Fire Protection (Board) is soliciting review and comment on proposed regulatory amendments of the existing Forest Practice Rules. The proposed amendments are intended to acknowledge that the native Monterey pine (*Pinus radiata*) is not managed by itself as a commercial species in California. The amendments are also intended to remove impediments to the treatment of hazardous fuels conditions caused by the presence of non-native, highly flammable eucalyptus species (*Eucalyptus sp.*).

The regulatory proposal also incorporates two corrections to the scientific names for incense cedar (*Calocedrus decurrens*) and tanoak (*Notholithocarpus densiflorus*). These corrections recognize that the genus for both species was revised as a result of taxonomical research.

**PUBLIC HEARING**

The Board will hold a public hearing on Wednesday, October 9, 2013, at its regularly scheduled meeting commencing at 8:00 a.m., at the Resources Building Auditorium, 1<sup>st</sup> Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

## **WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, October 7, 2013.

The Board will consider only written comments received at the Board office by that time and those written comments received in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Eric Huff  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9<sup>th</sup> Street  
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[board.public.comments@fire.ca.gov](mailto:board.public.comments@fire.ca.gov)

## **AUTHORITY AND REFERENCE**

Authority cited: Public Resources Code Sections 4526 and 4551. Reference: Public Resources Code Sections 4511, 4525.5, 4527, 4528, 4551.5, 4553, and 4581.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, Public Resources Code Section 4511, *et seq.* 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.

Public Resources Code Section 4526 defines “Timberland” as, “...land other than land owned by the federal government and land designated by the board [of forestry and fire protection] 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. Commercial species shall be determined by the board on a district basis.”

Pursuant to this statutory direction, the Board has identified by Forest District a number of tree species in the definition of “commercial species” contained in 14 CCR § 895.1. The Board also bifurcated the commercial species lists for the three Forest Districts into “Group A” and “Group B” species. “Group A” tree species are the higher value conifer species used in the manufacture of most lumber products. “Group B” tree species are the lower value species typically managed incidentally with the higher value Group A species. That is, Group B species are not themselves commercially viable and require the presence of Group A species in order to cover the cost of their management and removal. Post-harvest stocking standards contained in the Forest Practice Rules reflect this fundamental difference.

The current State Forest Practice Rule definition for “commercial species” includes both Monterey pine and eucalyptus. Ironically, though the Forest Practice Rules recognize both Monterey pine and eucalyptus as possessing commercial value, in reality there is currently no commercial value for either species. The expense of managing the two species is not offset by recovery of merchantable woody material. Though sawlogs, fuelwood, or wood chips may be produced, there is currently no economically viable outlet for these raw material products. Yet, wherever Monterey pine and eucalyptus are proposed for removal from private or non-federal public lands in the Coast and Southern Forest Districts, a state-approved commercial timber harvest permit is required. This requirement is not altered by the existence of any other approved California Environmental Quality Act (CEQA) documents such as Environmental Impact Reports or Negative Declaration documents. This duplicative permitting requirement represents nothing more than added cost to what is already a very costly endeavor.

This rulemaking proposal would therefore remove eucalyptus from the commercial species lists for the Coast and Southern Forest Districts. It would also move Monterey pine from the Group A category to the Group B category for the two Districts. This latter rule revision would still allow Monterey pine to be harvested as a commercial conifer species for use in wood product manufacturing pursuant to the Forest Practice Rules. But, it would also allow tree removals for other purposes such as native species restoration under other existing CEQA authorities without triggering the necessity for additional Forest Practice Rule permitting. Together, these two minor revisions to the Forest Practice Rules would alleviate the existing condition of dual CEQA permitting authorities.

The regulatory proposal also incorporates two minor corrections to the scientific names for incense cedar (*Calocedrus decurrens*) and tanoak (*Notholithocarpus densiflorus*). These corrections recognize that the genus for both species was revised as a result of taxonomical research.

### **SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED ADOPTION, AMENDMENT, OR REPEAL OF THE REGULATION**

The rulemaking proposal itself merely reclassifies two species of tree such that their removal would no longer trigger a State Forest Practice Rule permitting requirement. However, it is possible that certain beneficial byproduct effects relative to the environment and public/worker safety could occur as a result of the regulation. This regulation could lead to more treatment of hazardous fuels conditions by removing a costly and duplicative permitting requirement. Managers of private and non-federal public lands would be free to rely upon existing and prospective large-scale environmental disclosure documents pursuant to CEQA. Hazardous fuels conditions on such lands in proximity to urban residents could be treated to reduce risk and promote fire resiliency. Such treatments could also reduce risks to the general public and fire protection personnel thereby improving public and worker safety. Opportunities for restoration of native plant and tree species may also be greater as a byproduct of this regulation. Such opportunities, while perhaps abstract in nature, could provide environmental benefits.

### **IS THE PROPOSED REGULATION INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS**

The Board and Department of Forestry and Fire Protection have considered the consistency and compatibility of the rule proposal with existing state regulations. The proposed rulemaking is intended to modify existing Forest Practice Rule requirements previously adopted by the Board and implemented by the Department. Adoption and implementation of the State's Forest Practice Rules is solely the responsibility of the Board and Department, respectively. The two agencies therefore conclude the proposed rulemaking is entirely consistent and compatible with existing state regulations. The proposed regulation would eliminate a duplicative permitting requirement for the removal of Monterey pine and eucalyptus trees. The requirements of the California Environmental Quality Act, state and federal Endangered Species Acts, and other environmental laws and regulations would not be affected by this proposed regulation.

### **DISCLOSURES REGARDING THE PROPOSED ACTION AND RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

The results of the economic impact assessment prepared pursuant to GC § 11346.5(a)(10) for this proposed regulation indicate that it will not result in an adverse economic impact upon the regulated public or regulatory agencies. Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The regulation itself does not provide benefits to the health and welfare of California residents, or improve worker safety. However, it would eliminate an unnecessary and unintended regulatory hurdle currently impeding hazardous fuel reduction activities in proximity to many California residents and workers. In this way, the rulemaking proposal does create prospective benefits for Californians and may improve the safety of fire protection personnel in particular.

The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**Cost impacts on representative private persons or businesses:**

No such cost impacts have been identified.

**Effect on small business:**

No adverse effect upon small business has been identified. The proposed regulation removes an unintended impediment to the treatment of hazardous fuels conditions under separately approved CEQA authorizations. This impediment is in the form of duplicative permitting requirements affecting the planning rather than operational stages of fuel reduction projects. The Board may only speculate that small businesses engaged in fuel reduction projects could be the beneficiaries of reduced planning costs. Otherwise, small businesses are unlikely to notice any effect from the proposed rulemaking.

**Mandate on local agencies and school districts:**

The proposed regulation does not impose a mandate on local agencies and school districts.

**Costs or savings to any State agency:**

Though some cost savings to state timber review agencies may occur, such savings are not expected to be significant.

**Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500:**

The proposed regulation does not impose a reimbursable cost to any local agency or school district.

**Other non-discretionary cost or savings imposed upon local agencies:**

The proposed regulation will not result in the imposition of non-discretionary costs or savings to local agencies.

**Cost or savings in federal funding to the State:**

The proposed regulation will not result in costs or savings in federal funding to the State.

**Significant effect on housing costs:**

The proposed regulation will not significantly affect housing costs.

**Conflicts with or duplication of Federal regulations:**

The proposed regulations neither conflict with, nor duplicate Federal regulations. There are no comparable Federal regulations for timber harvesting on State or private lands.

**BUSINESS REPORTING REQUIREMENT**

The regulation does not impose a business reporting requirement.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code § 11346.5(a)(13), 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 or 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.

**CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Eric Huff  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-9633

The designated backup person in the event Mr. Huff is not available is Mr. George Gentry, Executive Officer of the California Board of Forestry and Fire Protection. Mr. Gentry may be contacted at the above address or by phone at (916) 653-8007.

**AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address.

All of the above referenced information is also available on the Board web site at:

[http://www.fire.ca.gov/BOF/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice.

If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.



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Eric Huff  
Regulations Coordinator  
Board of Forestry and Fire Protection

## **INITIAL STATEMENT OF REASONS**

**“Commercial Species Definitions Amendments, 2013”**

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The regulatory proposal also incorporates two corrections to the scientific names for incense cedar (*Calocedrus decurrens*) and tanoak (*Notholithocarpus densiflorus*). These corrections recognize that the genus for both species was revised as a result of taxonomical research.

#### **PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS**

In a letter to the Board, dated December 15, 2012, the Hills Emergency Forum (hereafter “Forum”) solicited the Board’s assistance in the resolution of an issue related to the Z’berg-Nejedly Forest Practice Act of 1973. The correspondence identified an apparent conflict between the commercial tree removal requirements of the Forest Practice Act and the Forum’s objectives for non-commercial tree removal associated with fuel hazard reduction projects. The Hills Emergency Forum is composed of the City of Berkeley, the City of El Cerrito, the City of Oakland, the California Department of Forestry and Fire Protection, the East Bay Municipal Utility District, the East Bay Regional Park District, The Lawrence Berkeley National Laboratory, the Moraga Orinda Fire District, and the University of California at Berkeley. The group of nine public agencies was formed in the aftermath of the Oakland Hills “Tunnel Fire” of 1991. The express objective of the Forum is to promote wildfire safety. To that end, a number of the Forum’s members have pursued long term management policies and plans that promote fire safety strategies.

Among these strategies is vegetation management to create fire-resilient landscapes and reduce the potential for catastrophic fire events.

A number of the Forum's members manage large landscapes occupied by plantations of Monterey pine and non-native eucalyptus species. Though Monterey pine is native to California, it is not indigenous to every locale in which it has been planted. Both species have spread beyond their initial planting sites as pioneers displacing other native, indigenous plant and tree species. The plantations and pioneers represent a significant fuel source for fires. These fuels exist in direct proximity to homes and developed infrastructure in areas commonly referred to as the wildland-urban interface. The public landowners among the Forum's members have worked diligently to pursue California Environmental Quality Act (CEQA) authorizations to remove and manage both species. Working through approved Environmental Impact Reports and Negative Declaration documents, these entities have sought to create safer conditions in interface areas while retaining their aesthetic values. These efforts have been somewhat hamstrung to date by the duplicative permitting requirements of the State's Forest Practice Rules.

In what can only be characterized as an unintended consequence, the current Forest Practice Rule definition for "commercial species" includes both Monterey pine and eucalyptus. This definition triggers the requirement for a state-approved commercial timber harvest permit regardless of the existence of other approved CEQA documents. The result is that the Forum's public landowners are now required to obtain commercial harvest permits from the Department of Forestry and Fire Protection in addition to the Environmental Impact Reports and Negative Declaration documents they already rely upon.

Ironically, though the State Forest Practice Rules recognize both Monterey pine and eucalyptus as possessing commercial value, in reality there is currently no commercial timber value for either species. Both species are commercially managed and extensively utilized in New Zealand and Australia. Unlike these two countries however, California has a variety of native conifer and hardwood species available for utilization. A number of private timber companies in California have attempted to manage Monterey pine for the manufacture of solid wood lumber and other products. However, none have been able to sustain the enterprise, as California's other native conifers have proven far more useful and valuable. In the meantime, plantations of the species in the Coast and Southern Forest Districts have flourished and spread, occupying lands where the species was not previously found.

Eucalyptus trees were planted throughout California beginning in the late nineteenth century with the intent they would be manufactured into wood products. According to the United States Forest Service, the planted range of eucalyptus species extends from Humboldt County south to San Diego County, with best growth in the coastal fog belt near San Francisco.

There are likewise numerous plantings in the Central Valley from Redding south to Bakersfield and San Bernardino. There are historical records that implicate California's first Board of Forestry as an active early proponent of eucalyptus propagation. Eucalyptus supporters at that time, primarily from Southern California, believed the species was destined for greatness as a hardwood suitable for a variety of uses. In particular, it was thought eucalyptus could be a viable substitute for declining eastern hardwood species in hardwood furniture manufacturing. Union-Pacific and Santa Fe Railroad Companies planted trial plots with the notion of using the fast growing trees as both ties for tracks and decorative windbreaks for its developable lots along the rights of way. When both Railroads ran into the same troubles with curing, as eucalyptus lumber is prone to excessive warp and twist when dried following milling, only the windbreaks remained. In the modern era, at least one private timber company planted discrete plantations of eucalyptus speculating the species could serve as a fuel source in power. However, this prospective use never came to fruition.

The Z'berg-Nejedly Forest Practice Act of 1973, Public Resources Code Section 4526 defines "Timberland" as, "...land other than land owned by the federal government and land designated by the board [of forestry and fire protection] 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. Commercial species shall be determined by the board on a district basis." Pursuant to this statutory direction, the Board has identified by Forest District a number of tree species in the definition of "commercial species" contained in 14 CCR § 895.1. The Board has also bifurcated the commercial species lists for the three Forest Districts into "Group A" and "Group B" species. "Group A" tree species are the higher value conifer species used in the manufacture of most lumber products. "Group B" tree species are the lower value species typically managed incidentally with the higher value Group A species. That is, Group B species are not themselves commercially viable and require the presence of Group A species in order to cover the cost of their management and removal. Post-harvest stocking standards contained in the Forest Practice Rules reflect this fundamental difference. Group A species require higher levels of stocking following harvest and must be maintained in pre-harvest proportion to Group B species. Group B species may be used to meet stocking standards where Group A species are lacking. However, this is to be a temporary condition resolved through planting of Group A species.

This rulemaking proposal would remove eucalyptus from the commercial species lists for the Coast and Southern Forest Districts. It would also move Monterey pine from the Group A category to the Group B category for the two Districts. This small revision to the Forest Practice Rules would alleviate the condition of dual permitting authorities discussed herein. These proposed rule amendments recognize two key realities: the reality that neither species is economically viable to manage; and the reality that both must be managed for the sake of public safety and the promotion of native, indigenous species.

As envisioned by the Board, this rule proposal would eliminate the necessity for a commercial harvest permit pursuant to the Forest Practice Act and instead affirm the value of other CEQA permitting options.

## **SPECIFIC PURPOSE OF THE REGULATION**

### **Article 1 – Abbreviations and Definitions**

#### **Section 895.1 Definitions – “Commercial Species”**

This existing rule section is proposed for amendment to move Monterey pine (*Pinus radiata*) from “Group A” of the “Commercial Species” lists for the Coast and Southern Forest Districts to “Group B” of the respective District lists. The rule section is also proposed for amendment to remove altogether, Eucalyptus (*Eucalyptus sp.*) from “Group B” of the “Commercial Species” lists for the Coast and Southern Forest Districts.

In addition, the scientific names for incense cedar and tanoak have been revised to reflect their most current taxonomy.

#### **NECESSITY**

There is currently no significant commercial value for either eucalyptus or Monterey pine to offset the expense of its management or outright removal for hazardous fuels reduction or native and indigenous species restoration. Yet, in certain parts of the state, most notably the East San Francisco Bay area, significant amounts of both species occur. Because both eucalyptus and Monterey pine are identified in the State Forest Practice Rules as companion commercial species in the Coast and Southern Forest Districts, the state requires a California Environmental Quality Act (CEQA)-equivalent commercial harvest permit. This requirement persists even when a project proponent already has other CEQA authorizations in the form of Environmental Impact Reports and/or Negative Declaration documents. Entities wishing to manage eucalyptus or Monterey pine at a landscape level for reduction of hazardous fuels conditions or native species restoration are therefore faced with duplicative permitting costs and requirements. These duplicative and redundant requirements make it that much more expensive to manage species for which there is no commercial value.

This regulation would remove eucalyptus from the Forest Practice Rules’ commercial species lists for the Coast and Southern Forest Districts. This effectively removes any Forest Practice Rule impediment to management of the species through other CEQA authorization documents. The regulation would likewise move Monterey pine to the Group B species lists for the two Districts. This latter action would still allow Monterey pine to be harvested as a commercial conifer species for use in wood product manufacturing pursuant to the Forest Practice Rules.

But, it would also allow tree removals for other purposes such as native species restoration under other existing CEQA authorities without triggering the necessity for additional Forest Practice Rule permitting.

## **ALTERNATIVES TO THE REGULATION CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES**

The following alternatives are under consideration by the Board:

### **Alternative #1: No Action – Do Not Adopt Regulation**

This alternative would result in no change to the current definition of “Commercial Species” in the State Forest Practice Rules. Monterey pine and eucalyptus species would continue to be categorized as Group A and Group B Commercial Species, respectively.

Cost-effective and consistent permitting for management of either or both of the species would continue to be elusive. Organizations wishing to manage either of the species for fuel hazard reduction would still be subject to project authorization pursuant the California Environmental Quality Act (CEQA). They would likewise continue to be required to obtain a commercial harvest permit from the Department of Forestry and Fire Protection. The expense of CEQA documentation alone challenges a project proponent’s dedication to fuel hazard reduction. The additive cost for a commercial harvest permit to remove species for which there is no commercial value represents additional cost with zero project benefit.

Adoption of this alternative would not be responsive to the request by the Hills Emergency Forum nor would it achieve the modest regulatory harmonization represented by this proposal. This option does not preclude the Board’s consideration of other possible rule revision proposals. However, it does terminate the least complicated alternative available to the Board for resolving a long-term public safety issue. For these reasons, this option does not appear viable and is therefore rejected.

### **Alternative #2: Adopt Regulatory Proposal for One District Only.**

This alternative would result in the Board’s adoption of the proposed regulation for either the Coast or Southern Forest Districts, but not for both. There is no justification to be discerned for the adoption of this alternative since eucalyptus and Monterey pine plantations exist in both Forest Districts. Neither species is commercially valuable regardless of District. The same management constraints imposed by costly and duplicative permitting requirements exist in both Districts.

Adoption of this alternative would be partially responsive to the request by the Hills Emergency Forum and would achieve at least a portion of the regulatory harmonization intended. However, it would impose a regulatory condition favoring once District over another despite both Districts sharing the same problem.

For these reasons, this alternative is less preferable to the “no action” alternative and is therefore rejected.

**Alternative #3: Adopt Regulatory Modifications as Proposed Without Additional Revision.**

This alternative would result in adoption of the rulemaking proposal as currently presented. No further substantive revisions to the rule text would be considered or presented for comment in further public noticing. The Board would take action to adopt the regulations following the initial 45-day Notice hearing.

It is anticipated this alternative would be preferable to the Forum and other like members of the regulated public. It would immediately remove an unintended and unfavorable regulatory burden imposed by the necessity for dual CEQA authorizations. The perverse requirement for a commercial harvest permit to remove species for which there is currently no commercial value would be eliminated. The overall expense of permitting for hazardous fuels reduction projects would thereby be reduced allowing proportionally more dollars to be spent on actual project operations.

This alternative presumes that no further regulatory amendment is necessary and precludes other possible remedies not yet identified. However, it does resolve the immediate issue of regulatory overburden in the least complicated manner available. The Board could continue to monitor and evaluate the effects of this action over time. Based upon this review and evaluation, the Board could further modify its regulations at some future point if necessary.

This alternative is preferable to the partial solution of Alternative #2 and status quo of Alternative #1, and therefore remains viable pending the outcome of the initial public hearing.

**POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS**

The California Environmental Quality Act (CEQA) requires review, evaluation and environmental documentation of potential significant environmental impacts from a qualified project. The Board’s rulemaking process was determined to be categorically exempt from environmental documentation in accordance with 14 CCR 1153(b) (1), Declaration of Categorical Exemptions.

However, this does not mean the outcomes of the Board's rulemaking proposal would be exempted from CEQA. The proposed regulatory amendments would reclassify two tree species that currently possess no commercial value. The regulatory proposal merely removes an unintended impediment to hazardous fuels management.

The compliance requirements of CEQA are not in any way altered by this rule proposal.

Project proponents would still be compelled to seek project authorizations through CEQA's environmental disclosure process. It is anticipated that proponents of this rule proposal would continue to operate under existing and subsequent new CEQA authorizations provided through Environmental Impact Reports and Negative Declaration documents. In this manner, all possible adverse environmental impacts and consequences of hazardous fuels reduction associated with Monterey pine and eucalyptus removals would continue to be analyzed. Mitigations to reduce the potential for adverse environmental impacts would likewise continue to be developed and included in project planning documents.

For these reasons, Board staff has determined the proposed regulation will not result in significant adverse environmental effects.

### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

There are no additional costs to any state agency, nor any state-mandated costs to local agencies of government or school districts that require reimbursement under Part 7, Division 4 (commencing with Section 17500) of the Government Code because of any duties, obligations, or responsibilities imposed on state or local agencies or school districts. This order can be accomplished with no additional net costs or where such costs exist they are entered into voluntarily. This order does not create any savings or additional costs of administration for any agency of the United States Government over and above the program appropriations made by Congress.

There are no mandates to local governments or school districts.

The regulatory proposal would eliminate an unintended duplication of CEQA permitting requirements. It is anticipated that adoption of the rulemaking as proposed would provide a minor level of cost savings to the affected regulated public.

The Board of Forestry has determined that no statewide alternative considered would be more effective in carrying out the purpose for which this regulation was adopted and would be as effective and least burdensome to affected private persons than the proposed action.

The following economic impact analysis is intended to satisfy the requirements of the Administrative Procedures Act, Government Code Section 11346.3(b).

**I. Will the proposed regulation create or eliminate jobs within the State of California?**

The proposed regulation is an amendment to the commercial species definition within existing regulation and will not significantly affect jobs in California. The purpose of the regulation is to remove an unintended impediment to management and treatment of Monterey pine and eucalyptus by eliminating a duplicative permitting requirement.

**II. Will the proposed regulation create new businesses or eliminate existing businesses within the State of California?**

The proposed regulation will neither create new businesses nor eliminate existing businesses in the State of California. The regulatory amendments are intended to remove an unintended regulatory burden upon entities wishing to reduce hazardous fuels conditions in the Coast and Southern Forest Districts.

**III. Will the proposed regulation result in the expansion of businesses currently doing business within the State of California?**

The proposed regulation will not result in the expansion of businesses currently doing business within the State. The regulatory amendments as proposed represent a modest attempt at regulatory harmonization with conventional CEQA processes.

**IV. Will the proposed regulation provide benefits to the health and welfare of California residents, worker safety, and the state's environment?**

The regulation itself does not provide benefits to the health and welfare of California residents, or improve worker safety. However, it would eliminate an unnecessary and unintended regulatory hurdle currently impeding hazardous fuel reduction activities in proximity to many California residents and workers. In this way, the rulemaking proposal does create prospective benefits for Californians and may improve the safety of fire protection personnel in particular.

**V. What is the estimated expense of proposed regulation upon those most affected?**

The proposed regulation will not result in an expense upon the regulated public. The regulation is intended to reduce the expense of permitting for management of Monterey pine and eucalyptus by removing the duplicative requirement for a state-approved timber harvest planning document.

## **ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Board of Forestry finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses. There will be no reporting or record keeping requirements in these regulations and compliance requirements are set out in the *Initial Statement of Reasons* and the proposed text of the regulations.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The Board of Forestry and Fire Protection consulted the following listed information and/or publications as referenced in this *Initial Statement of Reasons*. Unless otherwise noted in this *Initial Statement of Reasons*, the Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

1. 2013 California Forest Practice Rules, Title 14, Division 1.5, Chapter 4, Subchapter 1, Article 1 – Abbreviations and Definitions, Section 895.1 - Definitions.
2. Correspondence from the Hills Emergency Forum to Board of Forestry and Fire Protection, December 15, 2012.
3. Department of Forestry and Fire Protection staff paper on options to address management of Monterey pine and eucalyptus in response to Hills Emergency Forum correspondence. Staff paper presented to Board at May and June 2013 Board meetings.

**Pursuant to Government Code 11346.2(b)(6)**: In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Statement of Reasons*; the Board has directed staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

## **PROPOSED TEXT**

The proposed revisions or additions to the existing rule language are represented in the following manner:

UNDERLINE indicates an addition to the California Code of Regulations, and

~~STRIKETHROUGH~~ indicates a deletion from the California Code of Regulations.

All other text is existing rule language.

1                                   **“Commercial Species Definitions Amendments, 2013”**  
2                                   **Title 14 of the California Code of Regulations (14 CCR):**  
3                                   **Division 1.5, Chapter 4, Subchapter 1,**  
4                                   **Article 1 – Abbreviations and Definitions**

5  
6 **Amend:**

7                   **§ 895.1. Definitions**

8  
9 **§ 895.1. Definitions**

10                   \*\*\*\*\***Commercial Species** (For the Coast Forest District:) means those species found in  
11 group A and those in group B that are found on lands where the species in Group A are now  
12 growing naturally or have grown naturally in the recorded past.

13  
14 **Group A:**

- 15 -Coast Redwood (*Sequoia sempervirens*)    -Incense Cedar (~~*Libocedrus*~~ *Calocedrus decurrens*)  
16 -Douglas Fir (*Pseudotsuga menziesii*)      -Port Orford Cedar (*Chamaecyparis lawsoniana*)  
17 -Grand Fir (*Abies grandis*)                 -California Red Fir (*Abies magnifica*)  
18 -Western Hemlock (*Tsuga heterophylla*)   -White Fir (*Abies concolor*)  
19 -Western Redcedar (*Thuja plicata*)         -Jeffrey Pine (*Pinus jeffreyi*)  
20 -Bishop Pine (*Pinus muricata*)             -Ponderosa Pine (*Pinus ponderosa*)  
21 -~~Monterey Pine~~ (~~*Pinus radiata*~~)         -Sugar Pine (*Pinus lambertiana*)  
22 -Sitka Spruce (*Picea sitchensis*)          -Western White Pine (*Pinus monticola*)

23 **Group B:**

- 24 -Tanoak (~~*Lithocarpus*~~ *Notholithocarpus densiflorus*)      -Golden Chinkapin (*Castanopsis*  
25 *chrysophylla*)  
-Red Alder (*Alnus rubra*)                    -Pepperwood (*Umbellularia californica*)

- 1 -White Alder (*Alnus rhombifolia*)                      -Oregon White Oak (*Quercus garryana*)
- 2 ~~-Eucalyptus (*Eucalyptus species*)~~                      -California Black Oak (*Quercus kelloggii*)
- 3 -Pacific Madrone (*Arbutus menziesii*)                      -Monterey Pine (*Pinus radiata*)

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5                      **Commercial species** (For the Northern Forest District:) means\*\*\*\*\*

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7                      **Commercial Species** (For the Southern Forest District:) means those species found in

8 group A and those in group B that are found on lands where the species in group A are now

9 growing naturally or have grown naturally in the recorded past.

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11 **Group A:**

- 12 -Coulter Pine (*Pinus coulteri*)                      -Douglas-Fir (*Pseudotsuga menziesii*)
- 13 -Jeffrey Pine (*Pinus jeffreyi*)                      -California Red Fir (*Abies magnifica*)
- 14 -Ponderosa Pine (*Pinus ponderosa*)                      -White Fir (*Abies concolor*)
- 15 -Sugar Pine (*Pinus lambertiana*)                      -Incense Cedar (~~*Libocedrus*~~ *Calocedrus decurrens*)
- 16 -Lodgepole Pine (*Pinus contorta*)                      -Coast Redwood (*Sequoia sempervirens*)
- 17 ~~-Monterey Pine (*Pinus radiata*)~~                      -Sierra Redwood (*Sequoiadendron giganteum*)
- 18 -Western White Pine (*Pinus monticola*)                      -Mountain Hemlock (*Tsuga mertensiana*)

19 **Group B:**

- 20 -White Alder (*Alnus rhombifolia*)                      -Pacific Madrone (*Arbutus menziesii*)
- 21 -Cottonwood (*Populus fremontii*)                      -California Black Oak (*Quercus kelloggii*)
- 22 ~~-Eucalyptus (*Eucalyptus sp.*)~~                      -Tanoak (~~*Lithocarpus*~~ *Notholithocarpus densiflorus*)
- 23 -Monterey Pine (*Pinus radiata*)

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