

## Board of Forestry and Fire Protection

### INITIAL STATEMENT OF REASONS

#### “RULE ALIGNMENT, 2015”

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

**Division 1.5, Chapter 4,  
Subchapter 1, Article 1  
Subchapter 4, Article 6, 7, 14  
Subchapter 5, Article 7, 12  
Subchapter 6, Article 7, 14  
Subchapter 7, Article 2, 6.8, 7**

**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.*), the Board is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

The problem is as new material is amended into, outdated material is repealed from, or material is updated in this comprehensive assemblage of forest practice regulations, inconsistencies, errors, and omissions are sometimes introduced. Additionally, updating rules to be consistent with statute sometimes falls behind.

The purpose of the proposed action is for clean-up and catch up.

On July 23, 2015, the Board took action to authorize a 45-Day Notice, as part of regular rulemaking, for the regulation entitled “Rule Alignment, 2015”.

The effect of the proposed action is to improve the implementation of the Forest Practice Rules by timber owners, Registered Professional Foresters (RPF), Licensed Timber Operators (LTO), and the Department through modifications to the existing Forest Practice Rules. It makes consistent inconsistencies, corrects errors, and populates omissions. In addition, the proposed action makes specific statute, specifically PRC § 4590, regarding the effective period of a plan, and updates the rules to be consistent with statute, specifically PRC § 4584. The proposed action also includes the addition of drought as one of the conditions that constitute an emergency, which recently became effective as a result of the approval of the Drought Mortality Exemption (emergency rulemaking); the proposed action would make the addition of drought as one of the conditions that constitute an emergency, permanent. See summary below:

1. Amend 14 CCR §§ 895.1, 1092.26(d)(2), and 1109.4 to delete and update obsolete terms “Erosion Potential” and “Estimated Erosion Potential” and replace them with “Erosion Hazard Rating”.
2. Amend 14 CCR §§ 895.1, 937.3, and 957.3 to delete the obsolete term “Stream and Lake Protection Zone”, which has been replaced with “Watercourse and Lake Protection Zone” and update the obsolete term “Stream” and replace it with “Watercourse”.
3. Amend 14 CCR §§ 895.1 (Feasible), 1039.1, 1041, 1092.01(e), and 1092.28(a) to address the change in effective period pursuant to AB 1492 (which amended PRC § 4590); replace 3 years with 5 years.
4. Remove 14 CCR § 1038(i)(15), the sunset clause, pursuant to SB 1541 (which amended PRC § 4584(j)).
5. Amend 14 CCR § 1038(i), replace reference to the specific form with reference to 14 CCR § 1038.2.
6. Amend 14 CCR § 1038(j)(5)(A) and (B) to include Coast District stocking standards and differentiate the stocking standards for the Northern and Southern Districts, pursuant to AB 1867 (which amended PRC § 4584).
7. Amend 14 CCR § 929.1 [949.1, 969.1] (e)(2)(B) to reference 14 CCR § 895.1 where the updated definition of the Confidential Archaeological Letter exists.
8. Amend 14 CCR §§ 1038(i)(7) and 1038(j)(7) to qualify the reference to the updated definition of the Confidential Archaeological Letter to make it clear that 14 CCR § 929.1 [949.1,969.1] (c)(3) does not apply to the 1038(i) and 1038(j) exemptions.
9. Amend 14 CCR § 917.2 [937.2, 957.2] to make it congruent with road rules by striking “but excluding appurtenant roads”.
10. Amend 14 CCR §§ 916.9(e) and 1038(i) to include “approved and” in front of “legally permitted structure” for consistency.
11. Amend 14 CCR § 1052.1 (b) to include drought.

The primary benefit of the proposed action is improved implementation of the Forest Practice Rules that will yield improved resource protection, planning (efficiency in plan development and plan review), and enforcement (more enforceable and achievable).

**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 modify the existing Forest Practice Rules, through regular rulemaking.

The problem is as new material is amended into, outdated material is repealed from, or material is updated in this comprehensive assemblage of forest practice regulations, inconsistencies, errors, and omissions are sometimes introduced. Additionally, updating rules to be consistent with statute sometimes falls behind.

The purpose of the proposed action is for clean-up and catch up.

#### **Explanation for why the Proposed Action Duplicates and/or Rephrases Statute and Existing Rules**

Duplication and/or rephrasing of statute and existing rules was necessary to satisfy the clarity standard. Duplication was used as a tool to provide context and have all related information in one place so that the burden of having to reference both statute and other portions of existing rules is not placed on the regulated public.

Also, duplication of relevant existing regulations in the proposed action was determined to be a prudent measure because it was developed and informed by experts in the field of forestry and through a collaborative effort between landowner, industry, agency, and environmental representatives.

#### **Additional Aggregated Explanation(s)**

Some of the provisions of the proposed action are based on the necessity to make them congruent with the new statutory provisions. Where the statute is made specific or interpreted, an explanation, regarding why the proposed regulation is reasonably necessary to carry out the purpose and to address the problem for which it is proposed, is provided.

#### **Amend 14 CCR § 895.1 (Erosion Hazard Rating, Erosion Potential and Estimated Erosion Potential)**

The proposed amendment to the definition for Erosion Hazard Rating (EHR) is to eliminate the differentiation between the Districts by including the reference to the relevant sections (14 CCR § 932.5 and 952.5) for the Northern and Southern Districts into a single definition for Erosion Hazard Rating. Concurrently, striking the definitions of Erosion Potential and Estimated Erosion Potential is proposed. Erosion potential and Estimated Erosion Potential are definitions that were erroneously not deleted from 14

CCR § 895.1 when a portion of the rules, pertaining to estimating erosion potential, were changed in 1982. These terms were in rules that were repealed at that time, but were erroneously not deleted from 14 CCR § 895.1. The definitions within 14 CCR § 895.1 for Erosion Potential and Estimated Erosion Potential direct the reader to the procedures to determine Erosion Hazard Rating within 14 CCR § 932.5 and 952.5. The proposed changes replace these obsolete terms with the term Erosion Hazard Rating, which is the applicable term for all districts. The change reduces possible confusion where the rules were clear in the intent that Erosion Hazard Rating was synonymous with Estimated Erosion Potential and Erosion Potential. The proposed changes are necessary to eliminate confusion and yield clarity and consistency.

### **Amend 14 CCR § 895.1 (Feasible)**

Assembly Bill 1492 (2011-2012) amended PRC § 4590. Pursuant to PRC § 4590(a)(1), a timber harvesting plan approved on or after July 1, 2012, is effective for a period of not more than five years. The language “for a period of not more than five years” gives the Board discretion in this regard. The Board decided to maximize the effective period of a plan allowed by statute. As such the three (3) years was replaced with five (5) years in several locations of the Board’s rules including in the definition of “Feasible”. This was necessary to address the problem raised in the AB 1066 (2009-2010) 09/02/09 Bill Analysis, an excerpt from which follows. *Note: AB 1066 preceded AB 1492 and was related.*

“Unlike most other states, forest landowners in California must receive a discretionary permit before harvesting timber on private lands. The combined paperwork costs, in-the-field environmental protection measures, and the short timeframe (3 years) that THP’s are valid, give landowners little flexibility in managing harvests. Landowners are unable to address dramatic price swings in cyclical markets (such as we are experiencing today) for lumber and other wood products. By lengthening the time period for THPs, the state will be required to review fewer plans. This will result in cost savings to the state and provide landowners with the ability to take better advantage of cyclical markets.”

The definition of “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technical factors. With regard to economic feasibility, the issue shall be whether the plan as revised could be conducted on a commercial basis within three (3) years of the submission of the plan and not solely on the basis of whether extra cost is required to carry out the alternatives.

The proposed change is to replace three (3) years with five (5) years and is necessary to be congruent with the Board’s decision to maximize the effective period of a plan pursuant to PRC § 4590(a)(1).

#### **Amend 14 CCR § 895.1 (Stream and Lake Protection Zone)**

The proposed change is to strike the definitions for “Stream and Lake Protection Zone” for each District, because the definition for “Stream and Lake Protection Zone” is obsolete. The definition for “Watercourse and Lake Protection Zone” replaced them. The term “Stream and Lake Protection Zone” has been replaced with “Watercourse and Lake Protection Zone” throughout the rules including as a result of previous clean-up packages including two in 1995, which are identified as rulemaking files 203 and 207. However, the proposed change was missed in previous clean-up packages. The proposed change is necessary to delete an obsolete definition and therefore eliminate confusion and yield clarity.

#### **Amend 14 CCR § 895.1 (Substantial Deviation)**

The proposed changes are to replace the obsolete terms of Erosion Potential and Estimated Erosion Potential with the current term Erosion Hazard Rating. Erosion Potential and Estimated Erosion Potential are definitions that were erroneously not updated when a portion of the rules, pertaining to estimating erosion potential, were changed in 1982. These terms were in rules that were repealed in 1982, but were erroneously not updated in subparagraph (B) in the definition of substantial deviation in 14 CCR § 895.1. The definitions within 14 CCR § 895.1 for Erosion Potential and Estimated Erosion Potential direct the reader to the procedures to determine Erosion Hazard Rating within 14 CCR § 932.5 and 952.5. The proposed changes replace these obsolete terms with the term Erosion Hazard Rating, which is the applicable term for all districts. The change reduces possible confusion where the rules were clear in the intent that Erosion Hazard Rating was synonymous with Estimated Erosion Potential and Erosion Potential. The proposed changes are necessary to eliminate confusion and yield clarity and consistency.

#### **Amend 14 CCR § 895.1 (Authority)**

PRC § 4561.6 was repealed, therefore it was deleted from the Authority and References for this section.

#### **Amend 14 CCR §§ 916.9(e) and 1038**

The proposed change is to amend 14 CCR §§ 916.9(e) and 1038(i)(8)(A) to include “approved and” in front of “legally permitted structure”. In every other part of the Board’s rules “approved and” precedes “legally permitted structure”. This is necessary for consistency, which will facilitate compliance and enforcement.

**Amend 14 CCR § 917.2 [937.2, 957.2]**

The proposed change is to strike “but excluding appurtenant roads”, which is necessary to make this provision congruent with the recently approved Road Rules.

The definition for Appurtenant Road, which was included in the recently approved Road Rules means a logging road under the ownership or control of the timber owner, timberland owner, timber operator, or plan submitter that will be used for log hauling.

14 CCR § 917.2 [937.2, 957.2] requires treatment of slash, pursuant to certain standards, created by timber operations within the plan area and on roads adjacent to the plan area, but excluding appurtenant roads.

This triggered an incongruity given that Appurtenant Roads may include roads that run through the plan area or lie adjacent to the plan area, which require treatment of slash to reduce fire hazard.

Therefore, the Board deemed striking “but excluding appurtenant roads” necessary for clarity and consistency.

**Amend 14 CCR § 937.3 [957.3]**

The proposed change is to replace “stream” with “watercourse”, because the term “stream” is obsolete. The term “stream” has been replaced with “watercourse” throughout the rules including as a result of previous clean-up packages including two in 1995, which are identified as rulemaking files 203 and 207. However, the proposed change was missed in previous clean-up packages. The proposed change is necessary to update an obsolete term and therefore eliminate confusion and yield clarity.

**Amend 14 CCR § 929.1 [949.1, 969.1]**

The proposed change is to amend 14 CCR § 929.1 [949.1, 969.1] (e)(2)(B) to replace the several lines of text that is a partial and outdated definition of the Confidential Archaeological Letter with reference to the updated definition for Confidential Archaeological Letter in 14 CCR § 895.1. Specifically, there is a discrepancy between the new definition in 14 CCR § 895.1 for a Confidential Archaeological Letter, which includes 14 CCR § 929.1 [949.1, 969.1] (c)(3), and the submittal requirements listed in 14 CCR § 929.1 [949.1, 969.1] (e)(2)(B) which does not include 14 CCR § 929.1 [949.1, 969.1] (c)(3). This is necessary to eliminate confusion and yield clarity.

**Amend 14 CCR § 1038**

The proposed change is to amend 14 CCR § 1038(i) to replace reference to the specific form with reference to 14 CCR § 1038.2, the section which lists the contents of the exemption form. This is necessary to prevent having to update this provision if the form version should be changed in the future.

### **Amend 14 CCR § 1038**

The proposed change is to amend 14 CCR §§ 1038(i)(7) and 1038(j)(7) to qualify the reference to the updated definition of the Confidential Archaeological Letter to make it clear that 14 CCR § 929.1 [949.1,969.1] (c)(3) does not apply to the exemptions provided in 14 CCR §§ 1038(i) and 1038(j). An incompatibility was introduced in 2014 when the Native American Notification for Emergency Notices rulemaking effort updated the definition of the Confidential Archaeological Letter to include 14 CCR § 929.1 [949.1,969.1] (c)(3). Simultaneously the Forest Fire Prevention Pilot Project Exemption (FFPPPE) was going through regular rulemaking and in 14 CCR § 1038(j)(7) the requirement that an RPF provide a Confidential Archaeological Letter, the definition for which at that time excluded 14 CCR § 929.1 [949.1,969.1] (c)(3), was specified. Once the Native American Notification for Emergency Notices rulemaking effort was approved, the incompatibility became apparent through feedback from the regulated public, but not before 14 CCR § 1038(i)(7) was changed to match 14 CCR § 1038(j)(7).

The intent of the Board, based on the justification for 14 CCR § 1038(j)(7) in the Initial Statement of Reasons and the Supplemental Statement of Reasons, was never to have 14 CCR § 929.1 [949.1,969.1] (c)(3) apply to the FFPPPE. Additionally, 14 CCR § 929.1 [949.1,969.1] (c)(3) is not specified in the original statute pursuant to PRC § 4584(j)(7). Finally, 14 CCR § 929.1 [949.1,969.1] (c)(3) does not make sense in the context of an Exemption when no time is required to pass between Notification of the Native American Contacts and submission of the Exemption unlike Emergency Notice(s) which require that an RPF allow a minimum of seven (7) days for response to Native American Notification before submitting Emergency Notice(s) to the Director. This is necessary to eliminate confusion amongst the regulated public and the Department and yield clarity.

### **Amend 14 CCR § 1038**

The proposed change is to strike 14 CCR § 1038(i)(15), the sunset clause, pursuant to SB 1541(2012), which amended PRC § 4584(j) and eliminated the January 1, 2013, termination date for the Forest Fire Prevention Exemption. This is necessary to be consistent with statute.

### **Amend 14 CCR § 1038**

The proposed change is to amend 14 CCR § 1038(j)(5)(A) and (B) to include Coast District stocking standards and differentiate the stocking standards for the Northern and Southern Districts, pursuant to AB 1867 (which amended PRC § 4584). This is necessary to be consistent with statute, specifically pursuant to PRC § 4584(j)(11)(C)(ii).

### **Amend 14 CCR § 1052.1(b)**

This subsection was amended to include drought as one of the conditions that constitute an emergency in order to enable a person to submit an Emergency Notice to harvest trees that are fallen, damaged, dead or dying as a result of this condition. The addition of this condition was deemed necessary based on the emergency findings in approved OAL file # 2015-0701-02.

**Amend 14 CCR §§ 1039.1, 1041, 1092.01, and 1092.28**

Assembly Bill 1492 (2011-2012) amended PRC § 4590. Pursuant to PRC § 4590(a)(1), a timber harvesting plan approved on or after July 1, 2012, is effective for a period of not more than five years. The language “for a period of not more than five years” gives the Board discretion in this regard. The Board decided to maximize the effective period of a plan allowed by statute. As such the three (3) years was replaced with five (5) years in several locations of the Board’s rules including in 14 CCR §§ 1039.1, 1041, 1092.01(e), and 1092.28(a). This was necessary to address the problem raised in the AB 1066 (2009-2010) 09/02/09 Bill Analysis, an excerpt from which follows. *Note:* AB 1066 preceded AB 1492 and was related.

“Unlike most other states, forest landowners in California must receive a discretionary permit before harvesting timber on private lands. The combined paperwork costs, in-the-field environmental protection measures, and the short timeframe (3 years) that THP’s are valid, give landowners little flexibility in managing harvests. Landowners are unable to address dramatic price swings in cyclical markets (such as we are experiencing today) for lumber and other wood products. By lengthening the time period for THPs, the state will be required to review fewer plans. This will result in cost savings to the state and provide landowners with the ability to take better advantage of cyclical markets.”

The proposed change is to replace three (3) years with five (5) years and is necessary to be congruent with the Board’s decision to maximize the effective period of a plan pursuant to PRC § 4590(a)(1).

**Amend 14 CCR § 1041**

The proposed change is to include the authority and reference.

**Amend 14 CCR §§ 1092.26 and 1109.4**

The proposed changes are to replace the obsolete terms of Erosion Potential and Estimated Erosion Potential with the current term Erosion Hazard Rating. Erosion Potential and Estimated Erosion Potential are definitions that were erroneously not updated when a portion of the rules, pertaining to estimating erosion potential, were changed in 1982. These terms were in rules that were repealed in 1982, but were erroneously not updated in 14 CCR §§ 1092.26(d)(2) and 1109.4. The definitions within 14 CCR § 895.1 for Erosion Potential and Estimated Erosion Potential direct the reader to the procedures to determine Erosion Hazard Rating within 14 CCR § 932.5 and 952.5. The proposed changes replace these obsolete terms with the term Erosion Hazard Rating, which is the applicable term for all districts. The change reduces possible confusion where the rules were clear in the intent that Erosion Hazard Rating was synonymous with Estimated Erosion Potential and Erosion Potential. The proposed changes are necessary to eliminate confusion and yield clarity and consistency.

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

The purpose of the proposed action is for clean-up and catch up. It makes consistent inconsistencies, corrects errors, and populates omissions. In addition, the proposed action makes specific statute, specifically PRC § 4590, regarding the effective period of a plan, and updates the rules to be consistent with statute, specifically PRC § 4584. The proposed action also includes the addition of drought as one of the conditions that constitute an emergency, which recently became effective as a result of the approval of the Drought Mortality Exemption (emergency rulemaking); the proposed action would make the addition of drought as one of the conditions that constitute an emergency, permanent.

#### **Creation or Elimination of Jobs within the State of California**

The proposed action improves the implementation of the Forest Practice Rules and makes the development of plans more efficient and enforcement more achievable, which could at a large scale eliminate jobs assuming an inverse relationship between high efficiency and the number of jobs. However, given the small scale of the proposed action, no jobs in California are expected to be created or eliminated.

#### **Creation of New or Elimination of Existing Businesses Within the State of California**

The proposed action improves the implementation of the Forest Practice Rules and makes the development of plans more efficient and enforcement more achievable, which could at a large scale eliminate businesses assuming an inverse relationship between high efficiency and the number of businesses. However, given the small scale of the proposed action, no new businesses in California will be created or existing businesses eliminated.

#### **Expansion of Businesses Currently Doing Business Within the State of California**

The proposed action improves the implementation of the Forest Practice Rules and makes the development of plans more efficient and enforcement more achievable, which could at a large scale contract businesses currently doing business within the state of California assuming an inverse relationship between high efficiency and the expansion of businesses. However, given the small scale of the proposed action, no existing businesses in California will be contracted.

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

The proposed action will benefit the State's environment through improved implementation of the Forest Practice Rules that will yield improved resource protection, planning (efficiency in plan development and plan review), and enforcement (more enforceable and achievable). The proposed action will not benefit the health and welfare of California residents or worker safety.

## Summary

The proposed action:

- (A) will not create or eliminate jobs within California;
- (B) will not create new businesses or eliminate existing businesses within California;
- (C) will not affect the expansion of businesses currently doing business within California.
- (D) will yield nonmonetary benefits through improved implementation of the Forest Practice Rules that will yield improved resource protection, planning (efficiency in plan development and plan review), and enforcement (more enforceable and achievable).

### **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 proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Pursuant to **GOV §11346.5(a)(8)**, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support this initial determination:

This initial determination is based on consideration, by Board staff in July of 2015, of the economic impact of each provision of the proposed action. Board staff studied rulemaking files 203 and 207, which also involved clean-up and catch-up and in which the same determinations were made for comparable modifications. Additionally, the private sector experience of Board staff was relied upon to make this determination.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT RELIED UPON (pursuant to GOV SECTION 11346.2(b)(3))**

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

1. Excerpts from the Public Resources Code (PRC), 2015: §§ 4584 and 4590.
2. Excerpts from Title 14 of the California Code of Regulations (14 CCR), 2015: §§ 895.1, 14 CCR § 912.5 [932.5, 952.5], 913.2 [933.2, 953.2], 916.9, 917.2 [937.2, 957.2], 929.1 [949.1, 969.1], 937.3, 957.3, 1038, 1038.2, 1039.1, 1041, 1052.1, 1092.01, 1092.26, 1092.28, and 1109.4.
3. Excerpts from the Board of Forestry and Fire Protection Rulemaking File for the Forest Fire Prevention Pilot Project Exemption (FFPPPE): page 5 of 16 of the Initial Statement of Reasons and page 3 of 4 of the Supplemental Statement of Reasons.
4. Excerpts from the Board of Forestry and Fire Protection Rulemaking File 203 ("23 Points of Light"): pages 2, 4, 6-8, 289, 301-302, 304 and 310-313.
5. Excerpts from the Board of Forestry and Fire Protection Rulemaking File 207 ("12 Points of Light"): pages i, 1-6, 136, 148-149, 151 and 158-161.
6. Assembly Floor Analysis on AB 1066 (2009-2010) prepared by Dan Chia. August 19, 2009. <http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml>

**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**

No alternatives were considered because the Board deemed that the only action to take, pursuant to the principle of good housekeeping, was to clean-up and catch up. The proposed action makes consistent inconsistencies, corrects errors, populates omissions, makes specific statute, and updates the rules to be consistent with statute.

**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 regulation does not mandate the use of specific technologies or equipment, but does prescribe specific actions or procedures. The proposed action is only as prescriptive as necessary to make consistent inconsistencies, correct errors, populate omissions, make specific statute (specifically PRC § 4590), update the rules to be consistent with statute (specifically PRC § 4584), and make permanent the addition of drought as one of the conditions that constitute an emergency. Performance based standards were not reasonably expected to be as effective and less burdensome in achieving the purpose of proposed action.

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)**, no alternatives were considered because the Board deemed that the only action to take, pursuant to the principle of good housekeeping, was to clean-up and catch up. The proposed action makes consistent inconsistencies, corrects errors, populates omissions, makes specific statute, and updates the rules to be consistent with statute.

**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 research, the Board found that the proposed action neither conflicts with, nor duplicates Federal regulations. There are no comparable Federal regulations for timber harvesting on State or private lands. Specifically, existing Federal regulations that met the same purpose as the proposed action were not identified.

**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 has been certified by the Secretary of Resources as meeting the requirements of PRC § 21080.5.

The proposed action would be an added element to the State's comprehensive Forest Practice Program under which timber operations on timberland is regulated. The Board's Forest Practice Rules, along with the Department oversight of rule compliance, function expressly to prevent significant adverse environmental effects.

Additionally, the Department has the authority to inspect timber operations on timberland.

Finally, where Forest Practice Rule standards 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 will not result in significant adverse environmental effects because the standards that are required constrain activities to a level where significant impacts will be avoided. The proposed action is an element of a comprehensive avoidance and mitigation program for timber operations on timberland.