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. (FPA) 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 § 4584 authorizes the Board to adopt regulation to provide an exemption, from all or portions of the FPA, to a person engaging in certain forest management activities specified by the statute.

The Forest Practice Act of 1973 recognizes that the “forest resources and timberlands of the state are among the most valuable of the natural resources of the state”, and that “it is the policy of this state to encourage prudent and responsible forest resource management…” (PRC § 4512). The act also recognizes that some landowners who own timberland and forest resources may wish to utilize their land for purposes other than the growing, harvesting, and management of timber. In order to avoid infringement on constitutional limitations of private property rights, the Act contains provisions for the conversion of timberland through several mechanisms including Article 9 of the Act, and PRC § 4584 (g).

PRC § 4584 (g) allows the Board to adopt regulations exempting an individual from all or portions of the FPA when the landowner is engaged in “[t]he one-time conversion of less than three-acres to a nontimber use,” can demonstrate a bona fide intent to convert the land use, and has met certain other criteria. The Board has interpreted and
implemented these statutory provisions through the adoption of 14 CCR § 1104.1 – Conversion Exemptions. These regulations were adopted by the Board, pursuant to their statutory authority, to provide landowners relief from certain onerous or burdensome portions of the FPRs, including Plan preparation and conversion permit requirements, while maintaining environmental quality by requiring Timber Operations to comply with all other applicable provision of the Act and existing regulations.

Since their initial adoption as part of the Forest Practice Rules in 1974, the less than three-acre Conversion Exemption regulations of 14 CCR § 1104.1 have been widely utilized by landowners seeking to accomplish various conversion goals, from the construction of residences from which to manage their timberland, to improving rangeland resources, and the Department of Forestry and Fire Protection (Department) has received over 15,000 applications to date. However, the widespread use and longevity of the regulations have brought to light various misapplications and other shortcomings which have been addressed through statutory and regulatory amendments in order to clarify and make specific the intent of the statute while maintaining the Conversion Exemption as a functional tool for forest land management.

In 1997, the North Coast Unified Air Quality Management District brought to the Board issues with air quality which were related to the slash treatment requirements of the less than three-acre Conversion Exemptions. During discussion on this matter, the Board heard testimony from Licensed Timber Operators (LTOs) requesting that an allowance be made for LTOs to transfer the responsibility for slash and woody debris cleanup to the woodland owner. The Board responded to these points by amending the regulations within 14 CCR § 1104.1 to clarify and improve the language surrounding slash treatment to improve air quality, and to include the ability for responsibility of slash treatment to be transferred to the landowner with the intent of lowering out-of-pocket cleanup costs for landowners and, ultimately, maintaining the less than three-acre Conversion Exemption regulations as a viable tool which addressed both landowner needs as well as the intent of the Act.

In 2002, the California Assembly identified that the Conversion Exemption was being abused by individuals with no intention of converting the land to a non-timber use and using the exemption as an opportunity to harvest timber without going through the Plan preparation process. In order to address this concern, amendments were made to PRC § 4584 through Assembly Bill 671 (2002) which included provisions that no person or entity was allowed more than one exemption within a 5-year period (with some exceptions for hardships), and required certification by the landowner affirming their economic ability to carry out the conversion and that the conversion was feasible and were implemented by the Board as amendments to 14 CCR § 1104.1. The new regulations, along with their authorizing statutory provisions, served to re-enforce the purpose of the exemption as a tool for landowners who are acting in good faith to convert their property one-time to a non-timber use, and improved the Departments ability to enforce the exemption by making the landowner acknowledge this explicitly.
In 2016, the less than three-acre Conversion Exemption regulations were once again brought before the Board to address an uncommon, but relatively significant, issue with their application. As they existed, the regulations strictly prohibited the use of the Conversion Exemption where Timber Operations took place on significant archeological sites, requiring landowners to pursue permitting options which were exponentially more expensive, including Timber Harvest Plans, Timberland Conversion Permits, and full Environmental Impact Reports. This prohibition extended even to cases where professional and Departmental archeologists agreed that the impact of the action could be easily avoided or mitigated. The Board addressed this issue through the amendment of 14 CCR § 1104.1 to enable landowners to proceed with a Conversion Exemption where a significant archaeological site (14 CCR § 895.1) exists, though limiting this enablement to situations where specific protection measures would avoid harm to the site.

The problem is that within the less than three-acre Conversion Exemptions to the FPA there are issues with clarity, consistency, and application.

In December 2017, in response to their annual request for regulatory review, the Board received comments from CAL FIRE that certain provisions within the FPRs, specifically portions of 14 CCR § 1104.1 – Conversion Exemptions, could be improved to aid both the Department and the public in regulatory clarity, consistency, implementation, and enforcement.

The Department has stated that they have been experiencing historically high numbers of illegal timberland conversion; and though Forest Practice Rules do not explicitly forbid using the less than three-acre Conversion Exemption along with illegal conversion activities, this type of action has occurred. These actions do not appear to comply with the stated intent of the Act, which is to allow a “one-time conversion of less than three-acres…”, as they may result in multiple conversions on one ownership and for, potentially, the conversion of more than three acres. The proposed action seeks to make permanent, through regular rulemaking, amendments to 14 CCR § 1104.1(a) to allow the Director to refuse to accept less than three-acre Conversion Exemptions on ownerships where conversion has already occurred, unless otherwise determined to be consistent with the purposes of the Forest Practice Act.

In their December 2017 response, the Department also identified an issue wherein the Forest Practice Rules require that an LTO is responsible for the treatment of logging slash and woody debris, and this responsibility cannot be transferred, the only exception being for a less than three-acre Conversion Exemption where, pursuant to 14 CCR § 1104.1 (a) (2) (D), the landowner may assume responsibility for the slash treatment. While landowners who accept the responsibility for slash treatment may have the best of intentions, few have the capability to conduct slash treatment themselves. Fewer still have the experience necessary to complete the work to Forest Practice Rule standards. As a consequence, the Department has frequently issued violations to landowners for not adequately treating the slash. Additionally, given other statutory responsibilities of LTOs, there may be consistency issues with transferring the responsibility of fuel
PRC § 4526.5 defines a Timber Operator as someone who is engaged in Timber Operations, and PRC § 4527 includes fire hazard abatement activities within the definition of Timber Operations. PRC § 4571 additionally requires anyone engaged in Timber Operations to obtain a license from the Board (become a Licensed Timber Operator.) Given these statutory definitions, the existing language within 1104.1 (a)(2)(D) may not be consistent with statute, which would require that the treatment of slash and woody debris (as an act of fire hazard abatement), is required to be performed by an LTO. The proposed action seeks to eliminate the allowance for landowners to accept responsibility for slash treatment under a less than three-acre conversion exemption of 14 CCR 1104.1 (a)(2)(D).

Additionally, as identified by the Department, the notification requirements of the less than three-acre Conversion Exemption do not require a project map, unlike other FPR requirements for notification of adjacent landowners and Native Americans. The Department has received comments from Native American contacts indicating that the lack of a map with the notification letter makes project review more challenging and time consuming. The proposed action seeks to make the mapping notification requirements for adjacent landowners and Native Americans which are found within other provisions of the FPRs, to be applicable to the notification requirements of the less than three-acre Conversion Exemption of 14 CCR § 1104.1 (a)(3).

Furthermore, the Department in their response to the Board, also identified an issue with clarity and enforcement within how the Department is notified of the commencement of Timber Operations. Currently, the Forest Practice Rules include a requirement common to multiple harvesting document types to notify the Department prior to the commencement of timber operations. This requirement allows CAL FIRE’s forest practice inspectors to know when to begin inspections of active harvest operations. The less than three-acre conversion exemption does not require any such notification, which can cause confusion on the part of the exemption submitter and issues with enforcement with CAL FIRE. CAL FIRE has the authority (under PRC § 4119) and responsibility to inspect timber operations conducted pursuant to the FPA in order to ensure regulatory and statutory compliance. Notification allows CAL FIRE to adequately and efficiently schedule inspections of exemption operations. The proposed action seeks to amend, through regular rulemaking, 14 CCR § 1104.1 (a)(2)(I) to require notification to the Department as to when the commencement of operations will occur.

The effect of this proposed action is to, within the less than three-acre Conversion Exemptions, disallow the use of the less than three-acre Conversion Exemption where prior conversion has occurred on a contiguous ownership, to eliminate the ability of the LTO to transfer responsibility of slash and woody debris cleanup to the landowner, to require the inclusion of a map as part of notification to adjacent landowners and Native Americans, to improve the notification procedure for the commencement of timber operations, and to improve other issues of clarity and consistency as they exist.

The primary benefit of the proposed action is the maintenance of a comprehensive regulatory scheme which allows for the clear and consistent application and
enforcement of less than three-acre Conversion Exemptions. These measures may benefit environmental quality throughout the state through reducing the acreage of timberland that is converted and through improved slash treatment and timing, which can improve air quality and reduce fuel loading and fire hazard. Additionally, the improvement of notification processes will benefit the efficiency of CAL FIRE inspections and enforcement of exemption operations.

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 make permanent, through regular rulemaking, amendments to 14 CCR § 1104.1

The problems are:

- The Departments ability to refuse to accept Conversion Exemptions where prior, unpermitted conversion has occurred within a contiguous ownership is unclear.
- Regulations which allow for a landowner to accept responsibility for slash and woody debris treatment resulting from less than three-acre Conversion Exemption Timber Operations do not appear to be accomplishing their intended effect and may be inconsistent with other regulatory and statutory provisions.
- Adjacent landowners and Native Americans do not receive any mapping as part of notification for less than three-acre Conversion Exemptions, and are experiencing challenges with project review as a result.
- The absence of a notification procedure for commencement of timber operations pursuant to 14 CCR § 1104.1(a) can create difficulties for CAL FIRE in scheduling and performing inspections of operations to determine compliance.

The purpose of the proposed action is: 1) to make explicit the Departments ability to refuse to accept less than three-acre Conversion Exemptions where prior, unpermitted conversion has occurred on a contiguous ownership, unless otherwise determined by the Director to be consistent with the purposes of the FPA; 2) to eliminate the ability of the landowner to accept responsibility of slash and woody debris treatment for timber operations pursuant to less than three-acre Conversion Exemptions; 3) to require a map as part of notification to adjacent landowners and Native Americans to improve review of Conversion Exemptions pursuant to 14 CCR § 1104.1(a); 4) to require notification to the Department as to when the commencement of operations will occur; and 5) to improve clarity of the regulations.
§1104.1 Conversion Exemptions

§1104.1 (a)
1. Added a provision to make explicit that a less than 3-acre Conversion Exemption will not be accepted when a prior, unpermitted conversion had already occurred within the same contiguous ownership, unless determined to be consistent with the purposes of the FPA. PRC § 4584 (g) provides the Board with the authority to exempt individuals from portions of the FPA when engaged in a one-time conversion of timberland to a non-timber use. The Board has adopted regulations, pursuant to this authority, with the intent of providing regulatory relief for landowners who have a bona fide intent to convert less than three acres on one contiguous ownership. However, the Department has experienced several instances of landowners performing unpermitted conversions on their property, and then seeking an additional conversion exemption pursuant to 14 CCR § 1104.1 (a). This type of activity does not meet the intent of the Act or the regulations, as it results in more than “one-time conversion” (PRC § 4584), and results in more than one conversion per ownership. However, the current regulations state that the “…conversion exemption may only be used once per contiguous land ownership” which may be interpreted as permissive to multiple conversions, as long as only one of the conversions were permitted, thus allowing a potentially large amount of land to be converted by one ownership. This amendment is necessary to improve the clarity and enforcement of the regulations related to PRC § 4584 (g)(1), as a landowner’s Notice of Conversion Exemption Timber Operations shall not be accepted by the Department if the landowner has already converted timberland on that ownership and the Director determines that the conversion does not meet the intent of the Act.

§1104.1 (a)(2)
2. Eliminated the provision allowing landowners to accept responsibility for treatment of Slash and Woody Debris. This is necessary to achieve adequate treatment of slash and woody debris in a timely and complete fashion in order to reduce fuel loading hazards created by untreated slash, as well as air quality issues associated with poorly-treated slash. Though this provision existed to provide economic relief to landowners, it has not been widely utilized and has led to numerous violations and issues when it is implemented. Additionally, PRC § 4526.5 defines a Timber Operator as someone who is engaged in Timber Operations, and PRC § 4527 includes fire hazard abatement activities within the definition of Timber Operations. PRC § 4571 additionally requires anyone engaged in Timber Operations to obtain a license from the Board (become a Licensed Timber Operator). Given these statutory definitions, the existing language within 1104.1 (a)(2)(D) may not be consistent with statute, which would require that the treatment of slash and woody debris (as an act of fire hazard abatement), is required to be performed by an LTO. Given that the Forest Practice Rules do not otherwise allow the responsibility for treatment of slash and
woody debris to be transferred by the LTO, this is a suitable and appropriate standard to apply to timber operations pursuant to 14 CCR § 1104.1(a) and is also necessary for consistency within the regulations.

§1104.1 (a)(2)(K)
3. Added a provision requiring that Timber Operators notify the Department prior to the actual commencement date of Timber Operations. This notification requirement is necessary in order to ensure efficient and timely inspection of exemption-related timber operations and to ensure regulatory compliance and maintain environmental quality. Similar reporting requirements exist within 14 CCR §§ 1035.4, 1090.13, 1092.15, and 1094.14 and this standard of notification is appropriate and suitable for notification of commencement of operations for exemptions.

4. Included requirement that Timber Operations may not commence for 3 days if notification is provided by mail to allow time for correspondence to arrive to CAL FIRE and notification to occur. This is necessary to ensure timely inspection of timber operations and provide adequate enforcement by the Department.

§1104.1 (a)(3)
5. Added provision requiring a map of the project area be included in the Notice of Conversion Exemption Timber Operations to adjacent landowners and Native Americans, which is required with other notifications within the FPRs, including 14 CCR §§ 1038 (i), 1038 (j), 1038 (l), and is suitable and appropriate to use here in order to maintain consistency within the regulations.

§1104.1 (a)(7)
6. Removed the word “calendar” before “days”, as the use of “days” means “calendar days”, and the use of “calendar” exclusively within this provision may cause confusion with the use of “days” elsewhere within the provision. This change is necessary to enhance the clarity of these regulations.

NON-SUBSTANTIVE AMENDMENTS

§1104.1 Conversion Exemptions
1. Increased rule text congruency, consistency, and clarity as compared to rule text used in other provisions and utilized terms defined pursuant to 14 CCR § 895.1 where relevant including the following:
   o Maintain that numeric values are written out, followed by Arabic values within parentheses (within §§ 1104.1 (a)(2)(D)2., (a)(2)(D)7., (a)(3), (a)(4), (a)(7), (a)(8)(B), and (a)(8)(C)2.e.)
   o Capitalized defined terms pursuant to 14 CCR § 895.1 within §1104.1.
   o Made terms lower-case where they were not used pursuant to their definition in 14 CCR §895.1 within §§ 1104.1 (a)(2)(D)2., (a)(2)(J), and (a)(5).
ECONOMIC IMPACT ANALYSIS (pursuant to GOV § 11346.3(b)(1)(A)-(D) and provided pursuant to 11346.3(a)(3))
The **effect** of the proposed action is the following:

- To allow the Department to refuse to accept a Notice of Conversion Exemption Timber Operations where prior, unpermitted conversion has occurred on a contiguous ownership, unless otherwise determined by the Director to be consistent with the Act
- To eliminate the ability of the LTO to transfer responsibility of slash and woody debris cleanup to the landowner
- To require the inclusion of a map as part of notification to adjacent landowners and Native Americans
- To improve the notification procedure for the commencement of timber operations
- To improve other issues of clarity and consistency as they exist

**Creation or Elimination of Jobs within the State of California**
The proposed action does not require any additional obligations required from the regulated public than were previously in place. No creation or elimination of jobs will occur.

**Creation of New or Elimination of Businesses within the State of California**
The regulatory amendments as proposed represent a continuation of existing forest practice regulations and are only intended to guarantee certainty in their application until efficacy can be determined. The proposed regulation will neither create new businesses nor eliminate existing businesses in the State of California.

**Expansion of Businesses Currently Doing Business within the State of California**
The regulatory amendments as proposed represent a continuation of existing forest practice regulations and are intended to guarantee certainty in their application as long as the problem exists. Given that the businesses which would capture the work required by these amendments are already extant, it is expected that proposed regulation will neither create new businesses nor eliminate existing businesses in the State of California.

**Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment**
The proposed action will have a neutral effect on health, welfare, and worker safety, but may benefit the State’s environment. These measures may benefit environmental quality throughout the state through reducing the acreage of timberland that is converted and through improved slash treatment and timing, which can improve air quality and reduce fuel loading and fire hazard.

**Business Reporting Requirement (pursuant to GOV § 11346.5(a)(11) and GOV § 11346.3(d))**
The proposed regulation does not require a business reporting requirement.

**Summary**
In summary, the proposed action:

(A) Will not create jobs within California
(B) Will not create new businesses within California
(C) Will not affect the expansion or contraction of businesses currently doing business within California
(D) Will yield nonmonetary benefits. For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the “Introduction Including Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address”.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE (pursuant to GOV §§ 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))

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 (by making it costlier to produce goods or services in California).

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) and GOV § 11346.5(a)(8))

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.

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:

2. Excerpts from Board of Forestry and Fire Protection Rulemaking File No. 048.
5. Excerpts from Board of Forestry and Fire Protection Rulemaking File No. 257.
7. California Public Resources Code, Sections 4119, 4512, 4526.5, 4527, 4571, and 4584.

8. Minutes from May 23, 1974 Board of Forestry Meeting

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 14 CCR § 15252 (a)(2)(B), alternatives are not required because these regulations will not have any significant or potentially significant effects on the environment. Additionally, pursuant to 14 CCR § 1142(c), the discussion (of alternatives) may be limited to alternatives which would avoid the significant adverse environmental effects of the proposal. Consequently, the alternatives provided herein are provided pursuant to the APA (GOV § 11346.2(b)(4)) exclusively.

The Board has considered the following alternatives and rejected all but the “Proposed Action” alternative:

**Alternative 1: No Action**
The Board considered taking no action, but the “No Action” alternative was rejected because it would not address the problems.

The Board rejected this alternative as it does not address the current issues of clarity, consistency, and necessity which currently exist within less than three-acre Conversion Exemption regulations. If the ability of the Department to refuse to accept Notices of Conversion Exemption Timber Operations for less than three-acre Conversions was not clarified, landowners could willfully subvert the intention of the Act by engaging in multiple unpermitted conversions before obtaining a permitted conversion. If LTOs are not solely made responsible for the treatment of slash and woody debris, landowners without the ability or resources to adequately perform these operations may cause detriment to air quality or increase fuel loading and fire hazard. If applicants are not required to submit a map to adjacent landowners and Native Americans, public review of these projects may prove difficult.

**Alternative 2: Take Action to Make Existing Regulation Less Prescriptive**
This alternative would eliminate notification requirements and the non-statutory elements of Timberland Conversion regulations.
The Board rejected this alternative as would not achieve the legislative intent of PRC 4584 (g), which requires the Board to adopt regulations which make specific elements required of less than three-acre Timberland Conversion Exemptions. Additionally, eliminating reporting the commencement of operation requirements would create significant difficulties for CAL FIRE in planning and scheduling effective inspections of these operations, which they may be required to do. Furthermore, difficulties in inspections may result in unidentified non-compliance or environmental damage which could have long term impacts to the environment and landowners.

**Alternative 3: Proposed Action**
The Board accepted the “Proposed Action” alternative to address the problem as it is the most cost-efficient, equally or more effective, and least burdensome alternative. Alternatives 1 and 2 would not be more effective or equally effective while being less burdensome or impact fewer small businesses than the proposed action. Specifically, alternatives 1 and 2 would not be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation than the proposed action.

Additionally, alternatives 1 and 2 would not be more effective in carrying out the purpose for which the action is proposed and would not be as effective and less burdensome to affected private persons than the proposed action or would not be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action. Further, none of the alternatives would have any adverse impact on small business. Small business means independently owned and operated, not dominant in their field of operations and having annual gross receipts less than $1,000,000.

**Prescriptive Standards versus Performance Based Standards (pursuant to GOV §§11340.1(a), 11346.2(b)(1) and 11346.2(b)(4)(A)):**
Pursuant to GOV §11340.1(a), agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process.

The proposed action does not introduce additional prescriptive or performance based standards, it only seeks to extend an existing mix of performance and prescriptive based standards. Alternative #3 is preferred for the reasons described above and the rationales for individual provisions serves as the explanation for why a standard is prescriptive, if it is required to be prescriptive.

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), Alternatives 1 and 2 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 or procedures. Alternatives 1 and 2 considered by the Board require fewer specific actions or procedures but would result in a less effective regulation.

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 for timber harvesting on State or private lands.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has considered whether there will be any potentially significant adverse environmental effects from the proposed action. Such consideration was conducted to meet California Environmental Quality Act (CEQA) requirements for a project by using the functional equivalent certification to an EIR granted to the Board for its rulemaking process pursuant to PRC § 21080.5.

The proposed action creates additional administrative requirements of applicants when submitting exemption permitting documents pursuant to existing regulations, additionally restricts the scope of applications which can be submitted, and requires licensed professionals to perform work which is regulated by existing Board Rules. The action will create consistency in submission and review of exemption permitting, and does not alter the operational requirements of the work which is performed under those permits.

The proposed action would be an added administrative element to the State’s comprehensive Forest Practice Program under which all commercial timber management is regulated. The Board’s FPRs along with the Department oversight of rule compliance functions expressly to prevent adverse environmental effects.

State representatives review every exemption to ensure completeness and accuracy. Although exemptions are accepted by CAL FIRE ministerially if complete, they are required to meet the specific mandates included in the proposed rule text, the existing FPRs and requires an RPF to attest to specific onsite conditions before and after timber operations take place to address potential impacts to wildlife, archaeological, or other resources. Where FPRs regulatory 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 amends or supplements standards to an existing regulatory scheme and is not a mitigation as defined by CEQA. The Board concludes
that the proposed action will not result in any significant or potentially significant adverse environmental effects.