

FINAL STATEMENT OF REASONS

AB 2420, Forest Fire Prevention Exemption, 2005

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

Amend and Adopt:

Amend 14 CCR § 1038(e) Exemption

Adopt 14 CCR § 1038(i) Exemption

Amend 14 CCR § 1038.2 Exemption Form

UPDATED INFORMATION: OVERVIEW OF REGULATORY ACTION AND ADOPTED REGULATION

The State Board of Forestry and Fire Protection (Board) held a public hearing on July 14, 2005 on the adoption of this regulation on a permanent basis. The regulation was originally adopted on an emergency basis on January 7, 2005. On July 14, 2005, after reviewing comment and correspondence from concerned citizens and other agencies, and considering testimony presented at a public hearing, the Board adopted amendments to the Forest Practice Rules as proposed in its public notice published on May 27, 2005. The final adopted regulation language contained no revisions from the May 27, 2005 notice rule language.

The adopted regulation implements a legislative amendment to Public Resource Code (PRC) 4584 (k) authorized under Assembly Bill (AB) 2420, known as the Forest Fire Protection Act of 2004. This legislation authorized the Board to create a Forest Fire Prevention Exemption. This new class of Exemption would exempt persons who conduct timber operations from preparing and submitting Timber Harvest Plans, completion reports, and stocking reports when harvesting trees and other commercial forest products for the purpose of reducing the rate of fire spread, fire duration and intensity, fuel ignitability, and ignition of tree crowns.

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

The Board has considered alternatives to the regulation proposed. The alternatives considered represented minor regulatory changes as the authorizing statutes highly limited regulatory options. The alternatives primarily relate to various methods to measure the maximum tree size to be harvested and the method allowed for designating trees to be harvested. The goal of these alternatives was to improve economic efficiency of the fuel hazard reduction projects while retaining the high level of environmental protection provided for in the legislation. These alternatives were rejected following because they were determined to be inconsistent by the legislative authors with the intent of the legislation. No alternative considered by the Board would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has not identified any adverse environmental effects as a result of the proposed rules. The Board analyzed the potential cumulative effects and significant adverse environmental effects resulting from the treatments proposed in this regulation. The Board determined that the regulation has impacts that are individually limited and not cumulatively considerable. This determination is based on, among other things, the application of the regulation on a limited geographic area, incorporation of mitigation measures to minimize potentially significant impacts, and application of the operational provisions of the Forest Practice Rules. These findings are discussed in the “**Notice of Decision**” under **General Findings**. No other alternative before the Board provided better protection and yet met the purpose of the proposed regulation.

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

This regulatory proposal is not considered to cause a significant adverse economic impact because it is a voluntary action each person or entity will have made their own investigation and conclusions on any net benefits to be derived by implementing the regulation. The proposed action is especially designed to be “regulatory relief”, and reduce the economic burden of treating hazardous forest fuels. The Board estimated that the difference in economic relief provided by this regulation is approximately \$10,000 to 20,000 per plan submitted. This is based on the differential in cost for preparation of an average Timber Harvest Plan (Buckeye Report, 2002) versus the estimated cost of submission of an Emergency Notice.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the adopted action will have the following effects:

- **Mandate on local agencies and school districts:** The Board finds there are no additional costs any state mandated costs to local agencies of government or school districts that require reimbursement under Part 7, Div. 4 Sec. 17500 GC because of any duties, obligations or responsibilities imposed on state or local or agencies or school districts.
- **Costs or savings to any State agency:** The Board finds there are unknown additional costs or savings to state agencies. Potential fiscal savings were previously disclosed in the original AB 2420 bill analysis. It is unknown if this regulation will result in net costs or savings. THP review is a costly process, ranging from \$30,000 to \$40,000 General Fund per THP. To the extent that landowners file for an exemption instead of filing a THP, this regulation would result in General Fund savings, however, that savings would be offset by increased costs for inspections that are not required by the THP process. The regulation could result in potentially significant General Fund cost avoidance by reducing forest fire risk and making it easier for Forestry to contain fires while

they are small, thereby preventing large wildfires. Forestry annually spends more than \$400 million from the General Fund on fire protection and suppression.

- 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: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the regulation being not mandatory, and those choosing to use it will incur substantially less permit preparation costs than existing permitting regulations.
- Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or businesses would necessarily incur in reasonable compliance with the adopted action.
- Significant effect on housing costs: None
- 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.
- Effect on small business: None. The Board has determined that the adopted amendments will not have an adverse affect on small business. The adopted regulation is designed to provide regulatory relief, leading to substantial reduction in regulatory filing and preparation fees.
- The adopted rules do not conflict with, or duplicate Federal regulations.
- This regulation 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.
- This regulatory action was initially implemented on an emergency basis during the period of January 7, 2005 to September 8, 2005. This action is the permanent regulation replacing the previously mentioned emergency regulations.

Pursuant to Government Code § 11346.2(b)(5): 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 the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

SUMMARY OF LAWS RELATING TO THE REGULATION

The Z'berg - Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) establishes the State's interest in the use, restoration, and protection of the forest resources. In this Act, Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. Public Resources Code Sections 4512, 4513 and 4551, gives the Board the authority to adopt such rules and regulations necessary to assure continuous growing and harvesting of commercial forest tree species; and to protect the soil, air, fish, wildlife and water resources.

The adopted amendments are being promulgated under the Board's statutory authority of PRC 4551. The adopted regulation implements a legislative amendment to Public Resource Code (PRC) 4584 (k) authorized under Assembly Bill (AB) 2420, known as the Forest Fire Protection Act of 2004. This legislation authorized the Board to create a Forest Fire Prevention Exemption.

PUBLIC COMMENTS AND RESPONSE

See: Response to 45 Day Notice Public, and Hearing Comments

OTHER INFORMATION

Form RM -73 (1/1/06) was on file, along with the entire rulemaking file, and available for public inspection and copying throughout the rulemaking at the address listed in the 45 –Day Notice:

Room 1506-14
1416 9th Street
Sacramento, CA

File: FSOR AB 2420 10_28_05