

Board of Forestry and Fire Protection

SUPPLEMENTAL STATEMENT OF REASONS

**“Less Than 3-acre Conversion Exemption Amendments, 2024”
Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 4,
Subchapter 7**

The Board of Forestry and Fire Protection (Board) intends this Supplement to the Initial Statement of Reasons (ISOR) to reflect changes that have been made to the 45-Day proposed rule text and Initial Statement of Reasons, which was distributed on June 7, 2024.

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)).

Amend §§ 1104.1(a)(1)(A)

The proposed rule change modifies the sentence “Legal description of the location, county, and assessor parcel number(s) where the Timber Operation” to include “s are proposed.” at the end. The problem was that the modified sentence in the rule text was not complete. The purpose of the change was to correct the grammar error. This is necessary for the clarity and consistency of the rules.

Amend §§ 1104.1(a)(11)

The proposed rule change removes references to the contiguous land ownership waiver as that waiver is now covered in §1104.1(a)(13). The problem is that the contiguous land ownership waiver and the five-year waiver apply in different circumstances and should have different requirements: circumstances such as the applicant incurring liabilities or obtained a building permit; a change in ownership via methods other than sale; or the expiration of the previous notice of conversion exemption apply only to the waiver of the requirement that a party may only have one notice of conversion exemption per five year period. The purpose of the changes is to separate the two waivers into distinct items with appropriate requirements for each. This is necessary to prevent serial conversion under the contiguous land ownership waiver, which is now in §1104.1(a)(13).

Adopt §§ 1104.1(a)(12)

The one-time waiver, formerly covered under § 1104.1(b), is relocated adjacent to other waivers for the notice of conversion exemption. The problem is that the previously proposed rule structure separates similar waiver structures. The purpose of the change is to place information on applying for waivers from requirements concerning notice of conversion exemptions in the same location of the regulations. This is necessary to promote the clarity and consistency of the rules.

Items (B) and (C) are retained from the original proposed waiver. Item (A) requires that any timber operations conducted on a notice of conversion exemption issued to the timberland owner within the

past five years must have been conducted in a manner that meets or exceeds the intent of the Forest Practice Act and Rules or that any corrective work required by the Director of CAL FIRE has been satisfactorily completed. The problem is that the proposed text did not address the need to confirm that timberland owners seeking waivers to convert additional acreage from timberland were in compliance with the Forest Practice Act and Rules. The purpose of this change is to include a requirement that timberland owners applying for a waiver from the one-time limitation be in good standing in terms of regulatory compliance for notice of conversion exemptions. Item (D) requires that the timberland owner provide an explanation and justification for the need of a waiver that demonstrates that the imposition of the one-time limitation described in 14 CCR § 1104.1(a) would impose an undue hardship on the timberland owner. The problem is that the initial text omitted the requirement in the recent changes to PRC § 4584(g)(2)(A)(iv) that allowed the Board to adopt a waiver of the one-time limitation on less than three-acre conversion if the one-time limitation would impose an undue hardship on the landowner. The purpose of the change is to require that the timberland owner provide a description of the undue hardship that warrants a waiver. This is necessary to comply with the requirements set in PRC § 4584(g)(2)(A)(iv) by AB 1526.

Adopt §§ 1104.1(a)(13)

The contiguous land ownership waiver, formerly covered by § 1104.1(a)(11) with the five-year waiver, is relocated to § 1104.1(a)(13). The amended requirements for the waiver are as follows: Item §1104.1(a)(11)(A)(3.) is retained in this item as §1104.1(a)(13)(A). Item § 1104.1(a)(13)(B) requires that the area subject to conversion under the contiguous land ownership waiver is not on the same assessor's parcel as previously converted land. The problem is that the contiguous land ownership waiver and the five-year waiver apply in different circumstances and should have different requirements. Also, some of the requirements for a five-year waiver do not apply to the contiguous land ownership waiver. Limitations on the use of notices of conversion exemptions within contiguous land ownerships are to prevent large-scale conversion of timberland without appropriate environmental, regulatory, and community review. The requirements of the contiguous land ownership waiver, as written in the original rule text, would allow for repeated conversion without appropriate oversight. In addition, the lack of requirement that the waiver apply to a different assessor's parcel could allow for conversion of more than three acres on an assessor's parcel, which undermines the limitations of the notice of conversion exemption as set in §1104.1(a)(12). The purpose of this change is to separate two dissimilar regulations and to replace non-relevant options for seeking a contiguous land ownership waiver with an option that brings it into compliance with the requirements of 1104.1(a)(12). This is necessary to promote the clarity and consistency of the rules and to minimize environmental impacts of notice of conversion exemptions. Item §1104.1(a)(11)(D) is retained as §1104.1(a)(13)(C).

Remove §§ 1104.1(b)

This subsection has been moved to § 1104.1(a)(12). The problem was that waivers to the requirements for notice of conversion exemptions were in separate parts of the regulations, complicating compliance. The purpose of this change is to place similar regulatory processes in similar parts of the Forest Practice Rules. This is necessary for the clarity and consistency of the rules.

Non-Substantive Amendments

1. Corrected numbering to reflect addition/deletion of new sections
2. Corrected references to reflect current numbering.