FINAL STATEMENT OF REASONS (FSOR), pursuant to GOV §11346.9(a)

 “Coastal Commission Special Treatment Areas Silviculture Amendments”

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

Division 1.5, Chapter 4,

Subchapters 4 & 6, Article 11

# UPDATE OF INFORMATION CONTAINED IN ISOR (pursuant to GOV §11346.9(a)(1))

All material relied upon was identified in the ISOR and made available for public review prior to the close of the public comment period.

# SUMMARY OF BOARD’S MODIFICATIONS TO 45-DAY NOTICED RULE TEXT AND INFORMATION REQUIRED PURSUANT TO GOV §11346.2(b)(1)) (pursuant to GOV §11346.9(a)(1))

There are no revisions to the 45-Day rule text as noticed.

# MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS (pursuant to GOV §11346.9(a)(2)):

The adopted regulation does not impose a mandate on local agencies or school districts.

# COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH THE APPLICABLE GOVERNMENT CODE SECTIONS COMMENCING WITH GOV §17500 (pursuant to GOV §11346.9(a)(2)):

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

# ALTERNATIVE 3, BOARD’S ADOPTED ALTERNATIVE (update, pursuant to GOV §11346.9(a)(1)), of information pursuant to GOV §11346.2(b)(4)): Adopt Rulemaking Proposal as Modified Through Formal Public Review and Comment Process

The Board selected Alternative #3 as proposed and modified through the formal public review and comment process. The Board adopted the rule text published with the 45-Day Notice.

The proposed action is the most cost-efficient, least burdensome alternative and is equally or more effective than the other options considered. 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 less than 100 employees.

# ALTERNATIVES DETERMINATION (pursuant to GOV §11346.9(a)(4) and (5))

No other alternatives have been proposed or otherwise brought to the Board's attention, except as set forth in the ISOR and provided herein in the summary and responses to comments. Based upon the findings below and a review of alternatives the Board has determined the following:

* No alternative considered would be more effective in carrying out the purpose for which the regulation was intended.
* No alternative would be as effective and less burdensome to affected private persons than the adopted regulation.
* No alternative would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.
* No alternative considered would lessen any adverse economic impact on small business.

# FINDINGS (BASED ON INFORMATION, FACTS, EVIDENCE AND EXPERT OPINION) TO SUPPORT THE ALTERNATIVES DETERMINATION

* The Board finds that these regulations account for the changing climate and fire hazard levels, advances in silviculture, and new regulatory pathways that limit the environmental impacts of timber management in Coastal Commission Special Treatment Areas.
* The Board finds that the updated regulations reflect existing regulatory standards in the Forest Practice Rules based on best scientific knowledge.
* The Board finds that these updates are necessary to protect the natural and scenic qualities of the Coastal Commission Special Treatment Areas and the resources that led to the designation of theses areas.

# BRIEF SYNOPSIS OF ADDITIONAL ALTERNATIVES CONSIDERED AND REJECTED (update, pursuant to GOV §11346.9(a)(1)), of information pursuant to GOV §11346.2(b)(4))

## Alternative #1: No Action

The Board considered taking no action, but the “No Action” alternative was rejected because it would not address the problems as described within the ISOR.

## Alternative #2: Make Existing Regulation Less Prescriptive

## This action would replace the prescriptive standards for management of timber operations in the Coastal Commission Special Treatment Areas with performance based regulations. This alternative would potentially impact the natural and scenic qualities that led to the designation of Coastal Commission Special Treatment Areas and reduce clarity and consistency with other portions of the rules which rely upon the existence of the current operational limitations in order to ensure that forest resources are preserved.

# SUMMARY AND RESPONSE TO COMMENTS (pursuant to GOV 11346.9(a)(3))

The comments below are identified in the following format: The letter S or W followed by a series of numbers separated by a hyphen, followed by the name and affiliation (if any) of the commenter (e.g. W1-8: John Doe, Healthy Forest Association).

S: Indicates the comment was received from a speaker during the Board hearing associated with the Notices of Proposed Action.

W: Indicates the comment was received in a written format.

1st number: Identifies the comments in the order in which it was received.

## WRITTEN COMMENTS RECEIEVED DURING THE 45-DAY NOTIFICATION PERIOD FROM NOVEMBER 4, 2022 THROUGH JANUARY 18, 2023

### Comment W1-1: Matthew Reischman, Deputy Director Resource Management, CALFIRE

Re: “Coastal Commission Special Treatment Areas Silviculture Amendments, 2023.”

Dear Chair Gilless:

The California Department of Forestry and Fire Protection (CAL FIRE) supports the Board’s proposed rulemaking entitled, “Coastal Commission Special Treatment Areas Silviculture Amendments, 2023.” CAL FIRE has consistently participated in the Management Committee’s deliberations on this proposed rulemaking, including the field workshop hosted by the Humboldt-Del Norte Unit. We appreciate the Board Members’ and staff’s efforts to collaborate with the Coastal Commission in the interest of wildfire resilience in the Coastal Zone. This proposed rulemaking, though modest, is a significant step forward that could result in more resilient landscapes and improved protection of life and property.

 The proposed rulemaking removes the exclusion of the Coastal Commission Special Treatment Areas (CCSTA) of the Coast Forest District from the standards for treatment of slash created by timber operations within the plan area, near approved and legally permitted structures and on adjacent roads within the Coastal Zone. The purpose of this amendment is to require treatment of slash through chipping, burning, or removal from the site, along roads and near legally permitted structures to aid in firefighting efforts and the protection of lives and property. Additional changes remove the requirements that leave trees be “Countable Trees”, that 50% percent of trees with a diameter at breast height (DBH) of 12-18 inches remain after thinning, and that the remaining canopy cover for leave trees be greater than 50%. It also removes a description for the measurement of DBH that conflicts with the term as defined in Forest Practice Rule Section 895.

The proposed rulemaking would also allow for the use of the following silviculture methods in the CCSTA that were previously not allowed: Fuelbreak/Defensible Space, Variable Retention, and Alternative Prescription. Proposed companion amendments include modification of the stocking requirements for the CCSTA to reflect the standards in Section 912.7 for the Coast Forest District and Section 952.7 in the Southern Forest District. These proposed amendments are based on advances in the quality of seedstock, knowledge of tree seedling survival, and the implications of stand density on drought and pathogen mortality, and high intensity wildfire. Lastly, the proposed rulemaking would remove the prohibition of broadcast burning on lands harvested under the commercial thinning and selection silvicultural methods in the CCSTA, providing more options for vegetative fuels management.

CAL FIRE believes the proposed rulemaking could result in improved resilience of California forests to the increasing risks of wildfire and climate change by allowing for fuel treatments and more silviculture options for timberland owners. Additionally, CAL FIRE concurs that the proposed revised and added management options will ultimately have a positive effect on the aesthetic qualities of the harvest areas in the CCSTA along with improving the resilience of forests. The Department likewise supports the Board’s continued partnership with the Coastal Commission for the purpose of further improving opportunities for creation of wildfire resilient timberlands under shared jurisdiction.

Thank you for providing the Department an opportunity to comment on this important rule package. A representative from CAL FIRE will be at the hearing should any questions arise.

Sincerely,

MATTHEW REISCHMAN

Deputy Director

Resource Management

**Board Response:** The Board appreciates the support of the Department.

**Rule Text Change:** No.

### Comment W2-1: Grey Hayes, PhD, Education and Research Programs Manager, Swanton Pacific Ranch, CAL POLY San Luis Obispo

RE: Support for Proposed Rule Package: Coastal Commission Special Treatment Areas Amendments

Dear Board Members:

On behalf of Cal Poly’s Swanton Pacific Ranch, thank you for this opportunity to express strong support for the Coastal Commission Special Treatment Areas Amendments you will hear this Wednesday, July 27th at your meeting.

As you are probably aware, Cal Poly’s school forest at Swanton Pacific Ranch, and Cal Poly’s environmental management and forestry/fire sciences programs have long been critical to the State in preparing future leaders, demonstrating sustainable watershed and forest management practices, and providing a platform for cutting edge research to improve land management.

As your staff have correctly surmised and reported to you, the proposed amendments make solid sense and are great improvements over past language. The reduction in tree stocking rates (“countable trees” § 961.4. Stocking Requirements) accurately reflect the reality of the ecological conditions in our forests. The inclusion of practices for Fuelbreak/Defensible Space is likewise highly important given the rapidly emerging importance of managing our coastal forests to be resilient to wildfire.

Please support the proposed amendments. If you have any questions, my contact information is below.

Sincerely Yours,

Grey Hayes

**Board Response:** The Board appreciates the comment in support of the proposed rulemaking.

**Rule Text Change:** No.

**VERBAL COMMENTS RECEIVED DURING THE PUBLIC HEARING CONDUCTED July 26, 2023.**

### Comment S1-1: George Gentry, Senior Vice President California Licensed Foresters Association

He thanks the committee for their hard work. His organizations supports this rulemaking.

**Board Response:** The Board appreciates the comment in support of the proposed rulemaking.

**Rule Text Change:** No.

### Comment S1-2: Eric Huff, Staff Chief, Sacramento Headquarters Forest Practice, CAL FIRE:

The Department supports this rulemaking.

**Board Response:** The Board appreciates the support of the Department.

**Rule Text Change:** No.

### Comment S1-3: Grey Hayes, PhD, Education and Research Programs Manager, Swanton Pacific Ranch, CAL POLY San Luis Obispo

He expresses thanks to the Board for Rule Package. Cal Poly Supports the rule package, and appreciates that it reflects state of coastal forests with our stocking rates and wildfire adaptations. Thanks everyone for their hard work and development of the rule package.

**Board Response:** The Board appreciates the comment in support of the proposed rulemaking.

**Rule Text Change:** No.

### Comment S1-4: Nadia Hamey, Consulting Forester

She wants to echo the support of the previous speakers. The Board’s work on this issue is much appreciated and will got to good use improving forest conditions going forward.

**Board Response:** The Board appreciates the comment in support of the proposed rulemaking.

**Rule Text Change:** No.