

Board of Forestry and Fire Protection

INITIAL STATEMENT OF REASONS

“Apprentice Professional Forester Educational Program Proposal, 2024”

**Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 10:
Article 2 and 3
Amend sections 1640 and 1640.3
Add sections 1623 and 1640.4.**

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 Professional Foresters Law (PRC § 750, *et seq.*), there is the existence of a public interest in the management and treatment of the forest resources and timberlands of this state and to provide for the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of forested landscapes and the quality of the forest environment, and through that regulation to enhance the control of air and water pollution, the preservation of scenic beauty, the protection of watersheds by flood and soil erosion control, the production and increased yield of natural resources, including timber, forage, wildlife, and water, and outdoor recreation, to meet the needs of the people.

The proposed action is in response to budgetary investigations by the Office of Foresters Registration. In 2019, after several years of review by the Professional Foresters Examination Committee (PFEC), it was determined that fund 0300, also known as the Professional Forester Fund, would have insufficient funds to conduct the normal processes and functions for the examination and licensing of Registered Professional Foresters (RPF) and the Certified Rangeland Manager (CRM) specialty. Exacerbating the problem, demand for these professionals has increased as a result of government actions to address wildland fire. The last five years has seen the largest, most destructive wildland fires in California history, leading the Governor to mandate the increase in the “pace and scale” of forest fuel treatment projects across the state and budgeting over two billion dollars for those treatments on “Forested Landscapes” where the supervision by an RPF is required (1). The combination of poor fund condition, an aging RPF demographic where 40% have been practicing for over 30 years and 27% are currently retired, and increasing demand for their services, requires an increase in the pace of licensing to meet demand. There is currently a slow, consistent attrition of the RPF registry due to an aging RPF demographic that exceeded the rate of new licensing by approximately 1% every year up until 2021. Since then, RPF outreach

efforts helped to increase exam participation and stabilize the registry numbers (2). However, due to registry demographics, this leaves only 830 RPFs actively practicing forestry to help manage the 16 million acres of state and private timberland during this time of increasing pace and scale of forestry treatments. RPF licensing and examination process has always been challenging and this is on purpose, to ensure only qualified individuals are licensed. Applicants are required to attain seven years of qualifying forestry work experience or a combination of qualifying forestry work experience and forestry education that can be substituted for experience. Three of the seven years must be under the supervision of an RPF or a qualified exempt supervisor, and all experience must demonstrate increasing responsibility and complexity. After the seven years of experience and/or combined education and experience has been attained, the applicant must pass a rigorous seven and one-half hour examination comprised of multi-component forestry essay questions. Records show the pass rate of the RPF examination has hovered around 45% for the last forty years. Between 2017 and 2021, examination success rates had declined to just 37% (3). Much of this is attributed to declining forestry school enrollments, college curriculum which focus less on core forestry applications like mensuration, silviculture, forest operations and economics, and the lack of forestry mentorship to recent graduates with forestry and forestry related degrees.

The Board is proposing action to insert new section 14 CCR § 1623 and 1640.4 and amend existing section 14 CCR § 1640.3(a)(b)(1)(2) to create a pathway for an additional examination as provided for under PRC 769(c).

PRC § 759 provides authority to the Board of Forestry and Fire Protection (Board) to register applicants as Registered Professional Foresters based on three factors: good character; seven years of relevant forestry experience, or a combination of education and experience, three years of which must be under the supervision of a Registered Professional Forester; and passing the Registered Professional Forester's examination with a score of 75 or higher. The percent passing declined between 2017 and October 2021 to just 37%. The California Licensed Forester Association (CLFA) implemented a trial run program in late 2021 to educate exam participants on forestry core competency concepts which has yielded positive exam passing rates of 57%, 47%, 56% and 63% in the four exams occurring since April of 2022. Participation in the trial run program was shown to have increased exam success an average of 19% (4).

The **purpose** of the proposed action is to create an alternative licensing pathway titled the Apprentice Professional Forester (APF) educational program. Mirrored after the existing specialty program (14 CCR 1651, PRC 772), any public agency or professional society could submit to the Board their proposal to educate forestry licensing applicants and provide requirements for evaluation and/or testing of core competency subject matter in forestry. Proposals for education programs would be reviewed by the Board. RPF licensing applicants will be mentored, educated, and evaluated for their understanding of significant core competency subject matter that enables these licensing applicants to take their first step towards licensing earlier in the RPF licensing process, at year four of the seven required to qualify for the license. Applicants could

join the program having achieved only four years of qualifying forestry work experience or the combination of four years of forestry work and qualifying educational substitution. Upon completion of the APF program and passing of the program's core competency requirements, mentored forester graduates would only need to pass an abbreviated exam that tests applied knowledge at year seven. The abbreviated exam will be roughly equivalent to 1/2 of the current RPF exam in length and like the current RPF exam, it is focused on situational, multi- component essay questions.

The **effect** of the proposed action will be to create a program for forestry workers and forestry graduates to begin meeting examination requirements earlier in the qualification process. Starting at year four of the required seven years of forestry work experience, program participants will become eligible for the Apprentice Professional Forester program, upon completion and determination of successful passage of core competency requirements, the applicant will become qualified for an abbreviated professional exam at year seven that tests only applied knowledge.

The proposed action will result in the following:

- Participants in the program will be educated, mentored, or supervised by Registered Professional Foresters, forest management experts knowledgeable, trained, experienced and skilled in the scientific fields relating to forestry.
- It is expected that increasing numbers of four-year graduates in forestry will engage in the licensing qualification process earlier.
- It is expected that increasing numbers of forestry related graduates will engage in the licensing qualification process earlier.
- Testing on core competency subject matter closer to graduation will improve subject matter knowledge retention for testing, thus improving examination outcomes.
- It is expected that early testing at year four will create less anxiety for examinees who otherwise must prepare for a seven and one-half hour handwritten essay examination at year seven, as is current the practice.

Early opportunity for testing will keep more forestry and forestry related graduates from departing from the RPF licensing pathway for jobs outside of forestry. This will help to support the RPF supervision requirements in 14 CCR 1622

The **benefit** of the proposed action is to provide an opportunity for forestry graduates and workers participating in an APF educational program early examination testing for core competency. It is the opinion of the examining committee (PFEC) that this early examination will result in better examination outcomes as evidenced by a trial mentorship program by the California Licensed Forester Association (CLFA) that indicate a 16% increase in exam performance for participating applicants since its inception in 2021.

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.*
Add: §1623, §1640.4, Amend §1640. §1640.3,

Add § 1623 Evidence of Alternative Compliance for Significant Core Concept Competence

This section allows applicant who have completed a program recognized under §1640.4 to take an abbreviated exam as described in §1640.3. The problem that this section addresses is that many applicants for the Registered Professional Forester exam show limited understanding of the core concepts of forestry as listed in §1640.3. The purpose of this section is to allow an alternative pathway to becoming a registered professional forester. This is necessary to describe relevant certification pathways.

Amend §1640 Notification of Authorization to Take Examination.

This section is amended to provide information on examination notice and specification of whether the applicant will be taking the abbreviated exam. The problem that this section addresses is that the current language does not provide information on which exam the applicant will take. The purpose of this section is to describe necessary information for applicants to provide before the test. This is necessary to provide information on which exam will be attempted by the applicant.

Amend §1640.3 Examinations Prescribed

This section is amended to explain the core concepts of forestry and provide pathways describing how those concepts will be evaluated in the two exam pathways. The problem that this section addresses is that there is no regulatory description of how to prepare the abbreviated exam. The purpose of this section is to address the content of the abbreviated exam and clarify the contents of the standard comprehensive exam. This is necessary to provide clarify on the contents of both exams.

Amend §1640.3 Alternative Programs Certifying Competence in Significant Core Concepts.

This section allows the Board to recognize independent education programs to serve as an equivalent alternative for satisfying the need for applicants to the RPF exam to demonstrate core competence in significant core concepts in forestry. It describes the path by which the Board may recognize professional societies and public agencies as organizations that can administer the Apprentice Professional Forester program and core competency exam(s). It describes administrative procedures for applications from these programs, review of the programs, and publication of available programs. It also describes the qualifications that are required for someone to be an eligible applicant for these programs. The problem that this section addresses is a lack of clarity on the administrative requirements for independent education programs administering the Apprentice Professional Forester programs and exams. The purpose of this section is to provide the administrative requirements for educational programs to apply, provisions for Board review, publication of extant programs, and information on qualified

applicants. The necessity is to provide clarify and consistency in the rules describing the Apprentice Professional Forester program.

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 to increase the rate of RPF licensing examination success through a RPF mentored alternative educational licensing pathway.

Creation or Elimination of Jobs within the State of California

The proposed action does not mandate any action on behalf of the regulated public and represents a continuation of existing professional forester regulations. It is anticipated that any firms or jobs which exist to engage in this work will not be affected. 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 professional forester regulations and are intended to clarify their application. Given that the businesses which would be affected by these regulations are already extant, it is expected that 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 professional forester regulations and are intended to clarify their application. The proposed regulation will not result in the expansion of businesses currently doing business within the State.

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

The action will result in increased opportunities for becoming a Registered Professional Forester through the Professional Forester Rules. The proposed action will also provide environmental benefits by increasing the number of people eligible to do work under the Forest Practice Rules restricted to Registered Professional Foresters. The proposed action will not affect the health and welfare of California residents or worker safety.

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.

STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The proposed action:

- will not create jobs within California;
- will not eliminate jobs within California;
- will not create new businesses,
- will not eliminate existing businesses within California

- will not affect the expansion or contraction of businesses currently doing business within California.
- will yield nonmonetary benefits.

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. California’s Wildfire and Forest Resilience Action Plan, January 2021
2. University Forestry Programs Workforce and Training Research Report, March 2022
3. Update to the Board; Five Year Exam Performance by Education Background, June 2022
4. Memo to the EO Foresters Licensing from George Gentry, President CLFA, March 2024

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 **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternative 1: No Action Alternative

The Board considered taking no action, but the no action alternative was rejected because it would not address the problem.

Alternative 2: Allow Easier Examinations

This action would make existing Registered Professional Forester's examinations less comprehensive, allowing for higher passage rates from applicants. This alternative would allow registration of Professional Foresters who are not familiar with the core concepts of forestry and as a result would result in negative outcome in the management and treatment of the forest resources and timberlands.

Alternative 3: Proposed Action

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.

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 businesses.

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 is prescriptive as necessary to address the problem. The prescriptive regulations proposed in this action are necessary in order to provide adequate clarity of the regulations and related administrative processes.

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)**, the abovementioned alternatives 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.

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 fiscal and economic impact analysis for these amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of administering the Professional Forester's Exam in California that the Board brings to bear on regulatory development.

The proposed action will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states but it is not considered to be significant.

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 registration of professional foresters 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 would maintain the current regulation and licensing of professional foresters and specialty certificates in support of the State's comprehensive Forest Practice Program under which all commercial timber management is regulated. The Board's licensing of foresters and specialty certificates and its FPRs along with the Department oversight of rule compliance, functions expressly to prevent adverse environmental effects.

In summary, the proposed action will not result in any significant or potentially significant adverse environmental effects. The proposed action is to maintain the existing licensing of professional foresters and specialty certificates in support of a program for the regulation and mitigation of commercial timber harvesting activities. However, the proposed action is not a mitigation, pursuant to the CEQA definition.