Board of Forestry and Fire Protection

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

“Less Than 3-acre Conversion Exemption Amendments, 2024”

Board of Forestry and Fire Protection

**Title 14 of the California Code of Regulations**

**Division 1.5, Chapter 4,**

**Subchapter 7**

**Amend §§ 1100 & 1104.1**

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

No information contained in the Initial Statement of Reasons (ISOR) requires an update. 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))

All revisions to the 45-Day noticed Rule Text are summarized below.

## Amendments to §§ 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.

## Amendments to §§ 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 the 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).

## Adoption of §§ 1104.1(a)(12)

The one-time use 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 use 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 use 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 use limitation on less than three-acre conversion if the one-time use 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.

## Adoption of §§ 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).

Removal of §§ 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.

Additional changes:

In addition, non-substantiative amendments were made to correct numbering to reflect the addition or relocation of sections, and references were corrected to reflect the current numbering.

# 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.

The proposed action 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.

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 businesses.

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

* The Board finds that the adopted alternative improves the clarity and consistency of the rules.
* The Board finds the adopted alternative strikes a balance between performance based and prescriptive standards.
* The Board finds that a minimum level of prescriptive standards were needed to implement the statute.
* The Board finds that the changes proposed allow for greater flexibility in land development under notice of conversion exemptions that may enhance safety, wildfire management, access, and private land use.
* The Board finds that the changes proposed will not contribute to serial conversion of timberland.
* The Board finds that waivers to these limitations are merited under some circumstances to avoid undue hardship.
* The Board finds that one-time use waiver is in compliance with legislative changes to PRC 4584(g)(2)(A).
* The Board finds the adopted alternative fulfills the obligations of the Board, specified in statute, and represents a product based upon compromise and the greatest degree of consensus achievable at the time the Board authorized noticing of these amendments.
* The Board finds agency representatives reviewed and provided input into these amendments.

# 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 Alternative

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

## Alternative #2: Make regulation less prescriptive

This action would replace the existing prescriptive regulations related to Timber Operations conducted pursuant to 14 CCR § 1104.1. This action would create issues related to the preservation of environmental quality with regards to the ministerial permitting of certain timber harvesting operations and could lead to issues of clarity surrounding implementation and enforcement of the regulations. This alternative may 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 AND RESPONSES RESULTING FROM 45-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED JUNE 7, 2024

**Comment W1 (**Matthew Reischman, Deputy Director, Resource Management, CAL FIRE**)**

Re: “Less Than 3-acre Conversion Exemption Amendments, 2024”

Dear Chair O’Brien:

The California Department of Forestry and Fire Protection (CAL FIRE) supports the Board’s proposed rulemaking entitled, “Less Than 3-acre Conversion Exemption Amendments, 2024.” CAL FIRE has been aware of the regulated public’s interest in being able to develop their ownership over time through additional conversion exemptions. CAL FIRE appreciates the Board’s attention to the regulated public’s concerns while providing the necessary sideboards to limit the ability of landowners to chain convert their property in lieu of preparing a Timber Harvest Plan. CAL FIRE feels the Board has found a good balance in the additional allowances within the conversion exemption, while safeguarding the public’s and the state’s interest in maintaining timberland.

In summary, the proposed regulations:

* + Clarify the definition of “timberland conversion” and where it applies. (14 CCR §1100 Definitions)
	+ Require that a county representative is listed if a person from the county has not been delegated. (§1104.1(a)(1)(D))
	+ Require notification of completion to CAL FIRE no later than thirty (30) days from the actual date of completion of timber operations. (§1104.1(a)(5)(L))
	+ Allow a landowner to convert on a contiguous ownership if certain conditions are met. (§1104.1(a)(11))
	+ Allow a landowner to request an extension of the exemption time period, up to a maximum of two years, to allow the timber operations and conversion activities to be completed. (§1104.1(a)(12))
	+ Allow a landowner to submit additional Less Than 3 Acre Conversion Exemptions on the same parcel, to not exceed a total of three (3) acres converted, if certain conditions are met. (§1104.1(b))

CAL FIRE believes the proposed rulemaking could result in less violations of the Forest Practice Act and Rules by allowing landowners to develop their property over a longer period of time instead of converting all three acres at one time. This also may lead to less acreage being converted as the public would be better able to plan their development. The safeguards placed in the proposed regulations are expected to limit the ability of landowners to circumvent the Timber Harvest Plan process through chain conversion. The addition of requiring a county name be placed on the form, whether a county has delegated a person or not, ensures that the county is involved in the process with their authority for zoning on compatible land uses.

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

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

**Rule Text Change:** No

**Comment W2 (**Gary C. Rynearson, Chair, The Buckeye Conservancy**)**

RE: Less than 3 Acre Conversion 45 Day Rule Proposal

Dear Board Chair and Members:

The Buckeye is an organization of Northwestern California ranchers, farmers, timberland owners, and resource professionals. Our mission is to promote stewardship of working landscapes through shared experience, hands-on education, and collaboration, with the vision that the working lands and open spaces of Northwestern CA are viable, and to be conserved in perpetuity for future generations.

The Buckeye is writing to provide comments on the 3 Acre Conversion 45 Day Rule Proposal. We would like to thank the Board and staff for the opportunity to provide comments, and for recognizing the need to modify this rule to provide more flexibility for timberland owners.

Under the existing rule landowners have one opportunity to identify the areas where they may need to convert for the construction of outbuildings, residences, or other non-timber uses. This often would lead to converting an entire three acres when only one or two acres are needed. Situations change and the need to accommodate additional outbuildings or add a residence for a relative with new challenges, for example, is recognized in the proposed rule. This flexibility will allow timberland owners to adjust as situations change.

The only additional specific change we suggest concerns the slash cleanup requirement. Requiring the removal or burning of all slash 1" X 2" seems overly restrictive. Please consider a more feasible alternative.

Thank you for the opportunity to submit our comments on this rule package. We appreciate your efforts to provide additional flexibility for landowners.

With appreciation,

Gary C. Rynearson, RPF #2117

Chair, The Buckeye Conservancy

**Response:** The Board appreciates the support of the Buckeye Conservancy. The slash treatment requirements were reviewed. Within the Forest Practice Rules, slash treatment requirements typically apply to all harvested branches or limbs that are less than 4 inches in diameter. The proposed regulations as written place a lower limit on the size of slash that must be treated: branches and limbs that are less than one inch in diameter or less than two feet long does not need to be chipped, piled and burned, buried, or removed from the site.

**Rule Text Change:** No

**Comment W3 (**Rudolf Giulianissimo, Foresters Against the Refashioning of Timberlands**)**

Dear Board of Forestry,

In reviewing the proposed revisions to Sections 1100 and 1104.1 Foresters Against the Refashioning of Timberlands (FART) would like to trumpet the following concern:

Public Resources Code 4584 (g)(2)(A)(v) authorizes the Board of Forestry to adopt regulations for the waiver of existing one-time conversion limitations only provided that the limitation would impose an undue hardship on an applicant. The proposed revisions do not satisfy the authorizing statute and exceed the authority of the Board of Forestry.

It is unclear how the situations described in 1104.1(b) constitute hardships nor does the initial statement of reasons include information such as facts, studies, or expert opinions, on why each situation represents a hardship, as required by Section 10 of Title 1.

The Z-Burger-Nejedly Forest Practice Act of 1973 allows for the waiver of statutory limitations on one-time conversions only when the Board of Forestry, or the regulations adopted by the Board, find an undue-hardship to be imposed on the applicant as a result of the one-time limitation. FART has not been able to sniff out such a finding, or the requirement of a finding by the Board or cal fire in any of the materials on the Board of Forestry Website. Instead, the regulations seem to allow the applicant to determine if they have an undue hardship. Such an action is unauthorized by the Forest Practices Act.

Additionally, the structuring of the waiver allowances in (b) separate from (a)(11) does not satisfy the requirements of clarity within Section 16 of Title 1, as the "one-time limitation" is created both on a per-parcel and per-contiguous parcel basis and, provided that (b) provides a limitation on a per-contiguous parcel basis as well as a per-parcel basis, it appears as if (a)(11) could either be subservient to, or over-ride the waiver allowances of (b). FART doesn't know what it is smelling here and would recommend describing explicitly that the hardships described in (a)(11) are the hardships under which a waiver can be granted by (b). 2

Finally, the application of the existing hardships to the one-time limitations exceed the authority of the Board. The situations is (a)(11) allows for multiple timberland conversions where the construction of a building is approved by a local jurisdiction. Local jurisdictions do not have authority or responsibility over the implementation of the forest practice act, and building permits are discretionary on the part of the timberland owner, so the proposal allows for any timberland owner to apply for any number of building permits and be excused from the limitations imposed by statute and the good people of California. Such an action unlawfully delegates the authority of the Board, in regulating conversion, to local jurisdictions, in part, and to any yahoo who owns timberland in whole. FART thinks this stinks.

Respectfully,

Rudolpho Giulianissimo (I changed my name to avoid confusion)

**Response:**

Changes were made to the rule text as noticed for 15-days in response to the commenter’s input on the need to define “undue hardship” in the one-time waiver and to place waivers to the limitations set by the notice of conversion exemption in the same part of the rules.

The possibility that certain projects would require multiple waivers was considered by Board Staff. Upon review, it was found that the current rule text would support applications for multiple waivers.

Board staff reviewed the possibility that the application of the existing hardships to the one-time limitations exceed the authority of the Board. While § 1104.1(a)(11) allows for waivers from the contiguous land ownership requirement and the five-year limitation requirement, it does not apply to the one-time use waiver. However, per this and other comments, the contiguous land ownership waiver has been moved to § 1104.1(a)(13) and does not include a waiver option that applies when the construction of a building is approved by a local jurisdiction.

**Rule Text Change:** Yes

Per the commenter’s suggestion, the 15-day rule text requires that applicants for a waiver to the one-time use limitation as described in § 1104.1(a)(12) explain and justify the need for a waiver to demonstrate that the imposition of the one-time use limitation described in § 1104.1(a)) would impose an undue hardship on the timberland owner. Item § 1104.1(b) has been moved to the section with other applications for waivers from the full requirements of the Less Than 3-acre Conversion Exemption and is now found under § 1104.1(a)(12) to improve the clarity and consistency of the rules.

**Comment W4 (**Thembi Borras**)**

RE: Less Than 3-acre Conversion Exemption Amendments, 2024 (January 23, 2024 version)

Dear Board of Forestry and Fire Protection:

Thank you for retaining the word "contiguous" to constrain the applicability of a conversion exemption to a conversion of Timberland to a non-timber use only, of less than three (3) acres, in one contiguous ownership, whether or not it is a portion of a larger land parcel. To counterbalance this constraint, the Board proposes a waiver. This letter will focus on the waivers.

In the current rule text, in order for the constraint of less than three (3) acres, in one contiguous ownership to be waived one of the following conditions must exist. While they make sense for the waiver of the 5-year constraint, they are not a good fit to support a waiver of less than three (3) acres, in one contiguous ownership.

(A) 1. The construction of a building approved by the appropriate county/city permitting process is listed in the accepted Notice of Conversion Exemption.

2. The Timberland owner demonstrates to the Director that substantial liabilities for building construction have been incurred on each notice of conversion exemption that the Timberland owner has received in the last 5 five (5) years at the time the waiver is requested.

3. Timber Operations conducted on all notice of conversion exemptions issued to the Timberland owner within the past 5 five (5) years, prior to the time the waiver is requested, have been conducted in a manner that meets or exceeds the intent of the Act and Rules or any corrective work required by the Director has been satisfactorily completed.

Or (B) The change of ownership which caused the previous notice of conversion exemption to expire was not the result of the sale of the Timberland and the new Timberland owner provides information demonstrating that the imposition of the 5-year five (S) year limitation described in 14 CCR § 1104.l(a) would impose an undue hardship on the Timberland owner.

• Or (C) The notice of conversion exemption has expired and no operations Timber Operations have been conducted.

• Or (D) The Timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the 5-year five year limitation described in 14 CCR § 1104.l(a) would impose an undue hardship on the Timberland owner.

Therefore, my recommendation would be to strike the following text:



And add a new provision to describe the conditions that would qualify timber operations for a waiver of contiguity. Following are conditions the Board may find more appropriate:

• Timber Operations conducted on all notice of conversion exemptions issued to the Timberland owner, prior to the time the waiver is requested, have been conducted in a manner that meets or exceeds the intent of the Act and Rules or any corrective work required by the Director has been satisfactorily completed and

• The Timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the contiguity limitation described in 14 CCR § 1104.l(a) would impose an undue hardship on the Timberland owner and

• The land being proposed to be converted to another use directly supports forest management activities and

• The RPF certifies that the size, scope, and resources at risk do not rise to the level of requiring a Timberland Conversion Permit/ Timber Harvesting Plan.

It also appears that the following conditions may be missing from the waiver to the one-time limitation:

• Timber Operations conducted on all notice of conversion exemptions issued to the Timberland owner, prior to the time the waiver is requested, have been conducted in a manner that meets or exceeds the intent of the Act and Rules or any corrective work required by the Director has been satisfactorily completed and

• The Timberland owner provides 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.l{a) would impose an undue hardship on the Timberland owner.

I would also suggest that this waiver to the one-time limitation be reordered to the level of the other waiver provisions such that it is provision (14) and the waiver of contiguity be {13). I am suggesting this in part because it would not be possible to convert as much as 3 acres per parcel if the contiguity waiver were not first granted.

I also hope that the Board will consider providing examples in the rulemaking record of

circumstances that would constitute undue hardship and what circumstances would not constitute undue hardship.

Moreover, will the Board also consider keeping track, on an annual basis, of how many waivers to the contiguity constraint are being requested/granted and how many acres are being converted per contiguous ownership, under this exemption, and discussing the results as a matter of course to see if the pace and scale of timberland conversion has or has not been enabled by the proposed rule changes.

Thank you so much for your consideration and time.

Sincerely,

Thembi Borras

**Response:**

Changes were made to the rule text as noticed for 15-days in response to the commenter’s input on the contiguous ownership waiver and the one-time use waiver.

Changes to the proposed rule text made at the request of CAL FIRE will make it possible to track the use of the different waivers for the notice of conversion exemption through CalTREES, the online Forest Practice permitting and document management system for timber harvesting documents. This program is available to the public, and the Board will track the use of the notice of conversion exemptions in their annual tracking of various permitting mechanisms for timber harvest.

The commenter’s request that, under the waiver from the contiguity requirement, the land being proposed to be converted to another use directly supports forest management activities is in conflict with the principle of conversion: the Board has authority only over timberland, and once timberland is converted the Board has no authority over what the non-timberland is used for. The request that the RPF certify that the size, scope, and resources at risk do not rise to the level of requiring a Timberland Conversion Permit/ Timber Harvesting Plan does not apply: a less than 3-acre conversion exemption is by definition exempt from the requirement to write a Timber Harvest Plan or Timberland Conversion Permit.

The commenter’s request that the Board place examples of what constitutes undue hardship into the rulemaking record. A common principle of statutory and regulatory interpretation is that undefined terms are given their plain and ordinary meaning as commonly understood by the public. In this case, attempting to provide an exhaustive or prescriptive regulatory definition of what constitutes an undue hardship is likely to have unintended consequences by inadvertently excluding appropriate examples of situations posing a legitimate undue hardship. The Board has rejected the proposed change in favor of allowing the Director to exercise appropriately constrained discretion in evaluating claims of undue hardship, giving that term its common and ordinarily understood meaning.

**Rule Text Change:** Yes.

Per the commenter’s suggestion, the 15-day rule text moves the waiver for the contiguous land ownership requirement from § 1104.1(a)(11) to the newly created §1104.1(a)(13). In addition, this waiver now requires that timber operations conducted on all notice of conversion exemptions issued to the Timberland owner within the five years prior to the time the waiver is requested were 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 has been satisfactorily completed. It also requires that the proposed conversion activity under the contiguous land ownership waiver would occur on a separate assessor’s parcel than the existing conversion to prevent serial conversion and loss of timberland. Lastly, the contiguous land ownership waiver requires that the Timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the contiguous land ownership limitation would impose an undue hardship on the Timberland owner.

Per the commenter’s suggestion, the 15-day rule text modified the one-time use waiver requirements to reflect that timber operations conducted on all notice of conversion exemptions issued to the Timberland owner within the five years prior to the time the waiver is requested were 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 has been satisfactorily completed. In addition, the one-time use waiver requires that the Timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the limitation on the use of the notice of conversion exemption would impose an undue hardship on the Timberland owner. Lastly, the one-time use waiver has been moved adjacent to other waivers within the rule text under § 1104.1(a)(11)-(13) per the suggestion of this commenter and other commenters.

## VERBAL COMMENTS AND RESPONSES RESULTING FROM PUBLIC HEARING CONDUCTED JULY 24, 2024

**Comment S1 (**John Ramaley, CAL FIRE**):**

The Department thanks the Board for the changes, the Department appreciates and supports the rulemaking and believes that they will lead to additional compliance with the rules. This will allow people to build out their property over time, allowing for planning for a long-term conversion of up to 3 acres. The Department has had to tell a number of people over the years that they’d have to do a full THP or TCP to make a minor change to their property, and this will address that issue.

The Department would like to suggest stripping the contiguous land ownership amendment from the five-year amendment section and move it to its own section. The Department suggests retaining items A and D under the contiguous limitation, but notes that items, B and C are exclusive to the five-year limitation and would not apply to the contiguous land ownership limitation. The rule text as written would lead to confusion in the public and review team. The proposed change would also allow the CAL TREEs team to separate the various waivers and then report reliably on trends and uses – to separate these distinct uses will allow the database to capture these differences.

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

**Rule Text Change:** Yes

Per the Department’s suggestion and the suggestions of other commenters, the 15-day rule text moves the waiver for contiguous land ownership from § 1104.1(a)(11) to the newly created § 1104.1(a)(13). Upon Board staff review, items § 1104.1(a)(11)(A), § 1104.1(a)(11)(B) and § 1104.1(a)(11)(C) were determined to apply exclusively to the five-year waiver. Item § 1104.1(a)(11)(D) is retained as item § 1104.1(a)(C).

**WRITTEN COMMENTS AND RESPONSES RESULTING FROM 15-DAY NOTICE OF RULEMAKING PUBLISHED AUGUST 26, 2024**

**No comments were received during the 15- day public comment period.**