

Board of Forestry and Fire Protection

INITIAL STATEMENT OF REASONS

“LICENSING FEE AMENDMENTS, 2024”

DRAFT DOCUMENT

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

Division 1.5, Chapter 10:

Article 2

Amend: § 1605 (b)(2)(4)(6)(7) & (10)

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))

The Professional Foresters Law (PFL) (Public Resources Code (PRC) § 750, *et seq.*), declares 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.

Pursuant to PRC § 759, the Board is authorized to adopt rules and regulations to affect the provisions of the article (the Professional Foresters Law), including 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 (PRC § 751).

Additionally, within the PPFL, PRC § 782 requires the Board to “...establish by regulation the amount of fees within the following ranges and based on a determination by the board of the amount of revenues reasonably necessary to carry out the article.” The section then outlines maximum fees for certain specified applications, registrations, and other actions.

The proposed action was developed, in part, in response to budgetary investigations by the Office of Foresters Registration with the assistance from Cal Fire prior to 2020. After several years of review by the Professional Foresters Examination Committee (PFEC), it had been determined that the Registered Professional Foresters (RPF) Fund which is established within PRC § 780 and which is used for the administration of the PFL (PRC § 781), will have insufficient funds to conduct the normal processes and functions for the examination and licensing of Professional Foresters and the Certified Specialty program by fiscal 2019-20. Much of this problem stemmed from a reduced number of

registrants and a fee structure that has not changed for 28 years since last revised in 1991.

In 2019, the PFEC made recommendations to institute a substantial renewal fee increase of 84% for RPFs and 86% for CRM. The PFEC also discounted the renewal fee for RPFs with 30 years or more in the registry to retain those RPFs during the substantial renewal fee increase. The PFEC also increased other fees listed under 14 CCR 1605 (b) and added new regulatory text under 14 CCR 1605 (e) requiring the PFEC to review fund condition a minimum of every five years to avoid the substantial fee increase that went into effect in 2020. These actions helped to maintain the Registered Professional Forest Fund over the last five years

The **problem** is that, even with various cost-cutting and revenue generating measures which have already been implemented, the Registered Professional Foresters Fund will not be solvent enough for continued effective administration of the Professional Foresters law over the next five year period starting in 2025. Additionally, internal renewal surveys indicate the percentage of 30-year RPFs remains at over 40% of the registry and 27% are now retired but continue to pay their renewal fee to support licensing. This is good news, but with each proposed renewal fee increase there remains the potential risk to fund solvency since eventually this large cadre of RPFs will relinquish their license. This will significantly impact revenues from the Professional Forester Fund and reduce valuable professional skills and experience from the workforce at a time where implementation of forest health or fuel reduction projects, which require RPF involvement, are critically needed. The funds which are available for the administration of the PFL are generated through fees collected pursuant to the PFL and, though good governance would establish requirements for the evaluation of these funds to ensure continued administration of the PFL for the public good. With the adoption of 14 CCR 1605 (e), the mechanism now exists to address the fund condition every 5 years and current projections are that the fund will be insolvent after next year (2025).

Data was utilized from Cal Fire accounting reports. Utilizing the PFEC projection assumptions of 5% increase annually in new RPFs and 10% reduction in 30-year RPFs, it was determined that a minimum biennial fee to maintain fund integrity to maintain the fund solvency for another five years will require at a minimum a \$ 70 increase in the current renewal fee for Registered Professional Foresters (RPF), 30-year RPFs and Certified Rangeland Managers (CRM).

The **purpose** of the proposed action is to raise renewal fees to ensure the continued functions of the Office of Foresters Registration including the review of applicants for examination, examination development and implementation, proctoring, and grading. Other functions supported by the RPF fund include complaint review, investigations, complaint processing, litigation, record keeping, renewal processing, distribution of licensing information to the registry, and general administration of the Professional Foresters Law. The purpose is to also provide for efficient payment processing for registrants, clarify the process and procedures for appeals of examinations and

qualifications for license applicants, and to support the fund through implementation of fund reviews every five years at a minimum, and fee discounts to retain the most experienced professional forester registrants to help offset revenue losses and retain experienced RPFs. Approximately 73% of costs to the fund are associated with personnel costs for Board employees operating the foresters licensing and specialties program. These costs largely increase at an estimated 2% per year as outlined in employee bargaining unit agreements. The other 27% of the fund's costs are primarily associated with contracts for exam preparation and administration, exam grading, PFEC per diem expenditures, and pro rata charges from CAL FIRE. These costs can vary year to year depending on the number of applicants sitting for the examination, the number of committee meetings, and both incurred and projected expenses from CAL FIRE. The largest component of costs is associated with the RPF and CRM examinations where the revenue generated from the application fee is at the statutory limit of \$200, yet the costs incurred for exam development, administration and grading exceed this amount by approximately \$200. Without an action by the legislature or an approved budget change proposal, the statutory limit for the application fee cannot be increased.

The **effect** of the proposed action is to increase the available revenue to the RPF fund at operable levels by increasing renewal fees associated with the Office of Professional Foresters Registration, thereby ensuring the RPF fund solvency to 2030. The proposed action equates to a 20% biennial fee increase for RPFs, a 25% increase for 30-year RPF registrants, and approximately 53% for CRM. It should be noted that the licensing office does not collect application fees from the CRM specialty program and only collects fees after a CRM applicant becomes licensed. This is done to maintain the independence of the certified program as it relates to the Board for legal purposes.

The **benefit** of the proposed action is fund solvency so the processes and benefits of licensing for Registered Professional Foresters and Certified Specialists are maintained and the continual support and administration of the Professional Foresters Law is achieved, preserving the associated environmental benefits from having trained, licensed professionals to remain engaged in the professional practice of forestry as well as to oversee the work product of license applicants, consistent with 14 CCR § 1622.

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.*

The Board is proposing action to amend 14 CCR § 1605.

The **problem** is that the last time the renewal fee for Registered Professional Foresters was increased was in 1991. Since that time the number of foresters in the registry paying the renewal fee has gradually declined by approximately 1/3 thereby jeopardizing the fund solvency. The demographic distribution of the most significant segment of registrants in the program are Registered Professional Foresters (RPFs). RPFs comprise almost 93% of registrants and pay substantially more in renewal fees than Certified Specialists (\$350 biennially compared to \$130 for Certified Specialists). Surveys of the registry in 2019 by the Office of Professional Foresters Registration indicate 48% of all RPFs will retire practice within the next decade. Retaining qualified RPFs for supervision of unlicensed forestry practitioners is an important component of the qualifications to become an RPF per the regulations in 14 CCR § 1622. With nearly half of all registrants potentially retiring by 2030, the Office of Professional Foresters Registration will require increasing fees to manage the program and must balance those fee increases against the risk of losses of retired registrants because of the fee increases. Therefore, the Professional Foresters Examining Committee has chosen to structure the fees to provide enough revenue increase as are projected to be needed for the next five-year period. All associated costs and revenues for running the program have been evaluated and changes were already implemented in 2020 to further increase the efficiencies and reduce expenses.

The **purpose** of the proposed action is to provide sufficient funds to maintain the functions of the Office of Professional Foresters Registration for at least another five years into the future without another adjustment to the fund renewal fee amount.

The **effect** of the proposed action is the following:

- An 20% increase in both the annual renewal fee rate for license as a Registered Professional Forester (RPF) from \$175 to \$210, and the biennial renewal fee from \$ 350.00 to \$ 420.00 biennially.
- An 53% increase in both the annual renewal fee rate for a Specialty Certificate from \$ 65 to \$ 100, and the biennial renewal fee from \$ 130 to \$ 200.00 biennially.
- An 25% increase in the biennial renewal fee for 30-year RPF registrants from \$ 250.00 to \$ 320.00.

Aggregated Explanation

The proposed amendments section 1605 (b)(2)(4)(6)(7) & (10) do the following:

- Increase the annual and biennial rate for a license as a professional forester.
- Increase the annual and biennial renewal rate for a specialty certificate.
- Increase the biennial renewal rate for a 30 year RPF.

Amend 14 CCR § 1605 Fees

Amended § 1605 (b)(2) and § 1605 (b)(4) to increase the annual rate for a license as a professional forester and Specialty Certificate to \$ 210 and \$ 100 respectively. Amended § 1605 (b)(6) and § 1605 (b)(7) to increase the biennial renewal rate as a professional forester or specialty certificate to \$ 420 and \$ 200 respectively. Amend § 1605 (b)(10), to increase the biennial fee of renewal for 30 year RPF registrants to \$320.

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 the following:

- Increase the annual rate and biennial renewal rate for a license as a professional forester and a specialty certificate.
- Increase the biennial renewal rate for a RPF 30-year RPF.

The proposed action:

- (A) will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses,
- (B) will not eliminate existing businesses within California
- (C) will not affect the expansion or contraction of businesses currently doing business within California.
- (D) will yield nonmonetary benefits.

Based on the following parameters, the **upper bound** of the costs of the proposed action were quantified:

- The total number of licensed professional foresters in California is 1,109. With the fee increase 10% of the RPF registry will use the 30-year discount at a maximum.
- The total number of specialty certificates in California is 74.

Therefore, the total cost for the action is:

Proposed 2025 RPF biennial renewal increase	665 x \$420	= \$ 279,300
Proposed 2025 RPF biennial 30 year renewal increase	444 x \$320	= \$ 142,080
Proposed 2025 CRM biennial 30 year renewal increase	+ 74 x \$200	= \$ 14,800
		<u>\$ 436,180</u>

2021 RPF biennial renewal rate	683 x \$350	= \$ 239,050
2021 RPF 30 year biennial renewal rate	455 x \$250	= \$ 113,750
2021 CRM biennial renewal rate	+ 88 x \$130	= \$ 11,140
		<u>\$ 363,940</u>

Proposed 2025 renewal rate increase = \$ 436,180

2021 renewal rates	-	=	\$ 363,940
			\$ 72,240

Thus, the adverse economic impact is \$ \$ 72,240 dollars biennially or **\$ 36,120 annually.**

Businesses and Individuals will be subject to this cost. However, business are not expected to expand or contract as a result of these amendments. Although, the proposed action does increase costs to RPFs and businesses that pay the renewal fee for their employees, depending on the variables described above, it is not expected that the proposed action will be so economically expensive it will result in contraction of businesses or so time consuming that it will result in an expansion of businesses.

The number of businesses impacted, including small business, is unknown. Small businesses means independently owned and operated, not dominant in their field of operations and having annual gross receipts less than \$1,000,000. No businesses are expected to be created or eliminated.

The geographic extent is Statewide.

The proposed action may adversely affect the ability of California business to compete with other States by making it slightly costlier to produce goods and services in California. The proposed action will have a small effect on the costs managing forestland in California as compared to other States.

There are no reporting requirements associated with the proposed action.

The proposed action does not afford the incentive for innovation in products, materials or processes.

The proposed action will have a neutral effect on health, welfare, and worker safety, but will benefit the State's environment through the continued functions of the Office of Foresters Registration.

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

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)-(D)**. The proposed action:

- (A) will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses,
- (B) will not eliminate existing businesses within California
- (C) will not affect the expansion or contraction of businesses currently doing business within California.
- (D) will yield nonmonetary benefits. For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the

“Introduction Including Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address”.

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. State of California Public Resources Code (PRC) §§ 750-783
2. State of California Code of Regulations Title 14 (14 CCR) §§ 1600-1651

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: Make Existing Regulation Less Prescriptive

This action could include greatly simplifying the fee structure to one standard amount for all Registered Professional Foresters, Specialty Certificants and any other proposed future limited license class. This alternative was rejected as it would create further complications since the savings of a widely distributed uniform fee would be outweighed by the anticipated license withdrawal and voluntary relinquishment of both retired RPFs and both retired and active Specialty Certificants.

Alternative #3: Proposed Action

The proposed action is to raise revenue to ensure the continued functions of the Office

of Foresters Registration including; the review of applicants for examination, appeals of application denials, examination development and implementation, proctoring, exam grading and exam grading appeals. Other functions supported by the RPF fund include complaint review, investigations, complaint processing, litigation, record keeping, renewal processing, distribution of licensing information to the registry, and general administration of the Professional Foresters Law.

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.

There are no other viable alternatives. Without regulatory changes, the RPF fund will be depleted at the end of next year requiring state subsidy to perform the functions of examination, licensing and discipline of RPFs and CRMs.

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. Performance based changes are not considered viable alternatives as the costs and revenues associated with running the licensing program have not significantly changed since 1991. The greatest impact to the program has been the downward trajectory of revenue due to a declining registry which can only be redressed by a prescriptive fee increase.

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 experience practicing forestry in California that the Board brings to bear on regulatory development. Data was also utilized from CAL FIRE accounting reports and projections.

The proposed action will 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 the licensing structure of professional foresters or certified specialists.