

Board of Forestry and Fire Protection

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

“State Forest Regulations Update, 2018”

**Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 9
Subchapter 1, Articles 2
Amend: § 1401.1**

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))

The rule text was adopted as noticed for 45-Days.

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 (on June 26, 2020).

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 business.

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

- The Board finds that the state's Demonstration State Forests are valuable resources and tools for demonstration of commercial timber management, plantation management, ecosystem restoration, fire prevention, recreation, and monitoring, which are owned by the state and administered by CAL FIRE.
- The Board finds that it is the responsibility of the Board to approve policies and adopt regulations related to the management of the Demonstration State Forests, and it is the responsibility of CAL FIRE to act in accordance with those policies and regulations in the administration of these Demonstration State Forests.
- The Board finds that the recreational opportunities within the Demonstration State Forests are extremely valuable to the people of the state but require a great deal of capital in order to maintain and maximize their utility to the public.
- The Board finds that the department may collect recreational user fees for overnight camping and reserved group activities in Demonstration State Forests so long as those fees are utilized pursuant to PRC § 4652.
- The Board finds that the adoption of regulations related to the collection and schedule of fees is necessary in order to adequately implement the authorizing

statute and remain compliant with the Administrative Procedure Act.

- The Board finds that the proposed fees for overnight camping are modest and do not exceed the amount necessary to reimburse CAL FIRE's costs for maintenance and improvement of campground facilities, associated recreational facilities, natural environment, and access thereto.
- The Board finds that, though the costs of maintenance and development of recreational facilities on Demonstration State Forests are currently covered by existing budgetary allotments, additional funding will allow for further improvement of existing resources and the development of additional camping and recreational facilities.
- The Board finds that, currently, the collection of fees for overnight camping are only cost-effective within Jackson, Mountain Home, and Boggs Mountain Demonstration State Forests, but that the practice of fee collection within other Demonstration State Forests, and the amounts collected, may be evaluated at any point or points in the future and modifications made thereto through regulation.
- 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 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

The Board considered taking no action, but the "No Action" alternative was rejected because it would not address the problems.

The Board rejected this alternative as it does not address the existing issues of consistency and financial endurance which are present within the existing regulations.

Alternative 2: Take Action to Make Existing Regulation Less Prescriptive

This alternative would eliminate the prescriptive requirements of the fee schedule. The Board rejected this alternative as it would result in fees which are difficult for the public to interpret or implement. Additionally, without explicit control of the fee amount, the Board would not be able to establish that the fees collected do not exceed the

amount necessary to fund the costs of maintenance of and improvements to the campgrounds and associated facilities, environment, and access, as statutorily required by PRC 4652. Furthermore, subjecting the public to fees which are the interpretation of statute may result in an underground regulation.

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.

<p style="text-align: center;">WRITTEN COMMENTS AND RESPONSES RESULTING FROM 45-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED JUNE 26, 2020</p>
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Comment W1-1: Donald Bone, via email, July 10, 2020

“My understanding of the new fee hike from now \$15 to \$25 is due to extra policing of extra vehicles. If there is a problem with extra vehicles it should fall on those people who bring in extra vehicles not single families or lone campers. The price for extra vehicles is \$20 or \$5. A cost of \$5 per vehicle should be adequate.”

Board Response: The purpose of the fee structure revision and simplification is to address issues with practical enforcement of the separate fee structure, not to provide additional funding for enforcement of those additional vehicles. Provided the honor-based nature of fee collection processes at demonstration state forests, the Department indicated the enforcement of these provisions was overly time and resource consuming. Furthermore, the increased fees will provide additional funding for the ongoing maintenance and improvement of campgrounds and associated facilities on Jackson, Mountain Home, and Boggs Mountain Demonstration State Forests, and the increase in camping fees of either \$5 or \$10 per night is necessary to provide such funding.

Rule Text Change: No.