

**Board of Forestry and Fire Protection**

**NOTICE OF PROPOSED ACTION**

**“Notice of Intent Amendments, 2022”**

**Title 14 of the California Code of Regulations (14 CCR),  
Division 1.5, Chapter 4, Subchapter 7, Article 2 & 6.8**

[Notice Published in the Notice Register May 6, 2022]

**NATURE OF PROCEEDING**

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

**PUBLIC HEARING**

The Board will hold a public hearing on July 14, 2022, at its scheduled meeting held at the Courtyard Marriott, 313 Riverside Ave, Santa Cruz, CA 95060. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends on at the conclusion of the public hearing on July 14, 2022.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Eric Hedge  
Regulations Program Manager  
P.O. Box 944246

Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
715 P Street, 9<sup>th</sup> Floor  
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

PublicComments@BOF.ca.gov

**AUTHORITY AND REFERENCE (pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14) 14 CCR § 1122)**

Authority cited: Sections 4551, 4552 and 4582.3, Public Resources Code. Reference: 4551, 4581, 4582.3, 21080 and 21092, Public Resources Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW (pursuant to GOV 11346.5(a)(3)(A)-(D))**

Pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. the Board is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

Pursuant to PRC § 4551.5, the rules and regulations that the Board is authorized to adopt include measures for the conduct of Timber Operations and for the preparation of Timber Harvesting Plans.

Additionally, pursuant to PRC § 4582, Timber Harvesting Plans must "...be filed with the department in writing by a person who owns, leases, or otherwise controls or operates on all or any portion of any Timberland and who plans to harvest the timber thereon." One of the requirements of the Timber Harvesting Plan is "[a] description of the silvicultural methods to be applied..." (PRC § 4582(d)).

Furthermore, PRC § 4582.3 requires the Board to adopt regulations regarding "...notice of intent to harvest timber, to be given within two working days following submission of a timber harvesting plan"- in order to notify both the Department of Forestry and Fire Protection (Department), and those who may be affected by Timber Operations of proposed activities. The Board has adopted such regulations for Timber Harvesting

Plans (THP), and Programmatic Timber Harvesting Plans (PTHP) (a similar permitting scheme), within 14 CCR §§ 1032.7 and 1092.04, respectively.

Currently, the Forest Practice Rules include provisions for multiple silvicultural method types which may be utilized in a THP or PTHP, however the regulations regarding notices of intent to harvest timber only require disclosure of some of those silvicultural methods. The problem is that notice of intent to harvest timber regulations which do not require disclosure of all silvicultural methods proposed in a THP or PTHP fail to accurately disclose proposed project activities to the Department and persons which may be potentially affected by Timber Operations.

The purpose of the proposed action is to require the disclosure of all proposed silvicultural methods within the footprint of a THP or PTHP.

The primary benefit of the proposed action is the maintenance of a comprehensive regulatory scheme which allows for the clear and consistent application and enforcement of notice of intent with THP/PTHP. Additionally, the improvement of notification processes will benefit the efficiency of the Department review and enforcement of the regulations.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to the licensing of timber operators within State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statute to which the proposed action was compared: 4511 *et. seq.*

#### **MANDATED BY FEDERAL LAW OR REGULATIONS**

The proposed action is not mandated by Federal law or regulations.

The proposed action neither conflicts with, nor duplicates, Federal regulations.

There are no comparable Federal regulations related to stocking requirements on non-federal forest lands. No existing Federal regulations meeting the same purpose as the proposed action were identified.

**OTHER STATUTORY REQUIREMENTS (pursuant to GOV § 11346.5(a)(4))**

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

**LOCAL MANDATE (pursuant to GOV § 11346.5(a)(5)).**

The proposed action does not impose a mandate on local agencies or school districts.

**FISCAL IMPACT (pursuant to GOV § 11346.5(a)(6))**

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in Federal funding to the State.

The proposed action will not result in costs to any State agency. The proposed action represents a continuation of existing forest practice regulations related to stocking requirements on substantially damaged timberland and will not result in any direct or indirect costs or savings to any state agency.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

**HOUSING COSTS (pursuant to GOV § 11346.5(a)(12))**

The proposed action will not significantly affect housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE (pursuant to GOV §§ 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))**

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

**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) and GOV § 11346.5(a)(8))**

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of contemplating fire safety in land use and development in California that the Board brings to bear on regulatory development.

## **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:

- Will not create jobs within California (GOV § 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A));
- Will not create new businesses (GOV § 11346.3(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)) through the promotion of a clear an enforceable regulatory scheme. The proposed action will not affect the health and welfare of California residents, worker safety.

## **COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS (pursuant to GOV § 11346.5(a)(9))**

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. No adverse impacts are to be expected.

## **BUSINESS REPORT (pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))**

The proposed action does not impose a business reporting requirement.

## **SMALL BUSINESS (defined in GOV 11342.610)**

The proposed action will affect small business.

Small business, pursuant to 1 CCR § 4(a):

- (1) Is legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

## **ALTERNATIVES INFORMATION**

In accordance with **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, or 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.

## **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Eric Hedge  
Regulations Program Manager  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-9633

The designated backup person in the event Mr. Hedge is not available is Jane Van Susteren, Regulations Coordinator for the Board of Forestry and Fire Protection. Ms. Van Susteren may be contacted at the above address or phone.

## **AVAILABILITY STATEMENTS (pursuant to GOV § 11346.5(a) (16), (18))**

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## **FINAL STATEMENT OF REASONS**

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

**INTERNET ACCESS**

All of the material referenced in the Availability Statements is also available on the Board web site at:

<https://bof.fire.ca.gov/regulations/proposed-rule-packages/>