

Board of Forestry and Fire Protection

DRAFT DOCUMENT

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

**“REGISTERED PROFESSIONAL FORESTER AND CERTIFIED SPECIALTY
AMENDMENTS, 2019”**

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

Division 1.5, Chapter 10:

Article 1, 2 & 4

**Amend: §§ 1600, 1601, 1602, 1610, 1612, 1612.1, 1612.2, 1613, 1614, 1620, 1650,
1651**

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

No information contained in the Initial Statement of Reasons (ISOR) or Supplemental Statement of Reasons (SSOR) requires an update. All material relied upon was identified in the ISOR and SSOR 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:

- The Board no longer proposes amendments to 14 CCR § 1610 related to the use of the term “Executive Officer”
- The Board no longer proposes adoption of 14 CCR § 1611.5
- The Board no longer proposes amendments to 14 CCR § 1612.1(c)(12)
- The Board proposes adoption of a new subsection 14 CCR § 1650(c) as a re-location of what had previously been subsection 14 CCR § 1650(e), which requires a professional society or public agency to submit their independent certification program (consistent with PRC § 772) to the Board for recognition, and to include requirements and conditions for such recognition to occur as well as requiring the Board to register as certified specialists those applicants who meet the requirements under the recognized program and who have submitted evidence of such to the Board. Additionally, the proposed adoption requires that the Board make a determination that a program which is submitted protect the public interest by ensuring that individuals who satisfy the requirements of the program possess appropriate knowledge and experience in the area of practice encompassed by that program. The proposed amendment additionally requires that, following the determination described above, the Board shall recognize the certification program as full qualification without examination (consistent with PRC § 772) for the Board’s certificate of specialization, and shall register as certified specialists those individuals who meet the requirements of the program when those individuals submit evidence of such to the Board.
- The proposed amendment no longer proposes the addition of the phrase “to protect the public interest” within 14 CCR § 1650(d).
- The Board proposes an amendment to 14 CCR § 1650(d)(1) to eliminate an existing requirement that, for any internal panel for awarding certifications within a Board

recognized program, those members of the certification panel must be certified by the Board as meeting the professional qualifications and standards of the certified specialty. Additionally, the proposed amendment makes a distinction that, for an internal panel established by a public agency or professional society related to the administration of discipline within a Board recognized program, the discipline which will be administered is pursuant to the certified program.

- The proposed amendment to 14 CCR § 1650(d)(2) states explicitly that, subsequent to the Board granting specialty certification to an individual, the individual is subject to all Board disciplinary processes, both statutory and regulatory. Additionally, the amendment requires that a professional society or public agency with a Board recognized certification program provide information related to violations of PRC § 778(c) to the Professional Foresters Examining Committee (PFEC) upon request. Finally, the proposed amendment requires that a professional society or public agency with a Board recognized program inform the PFEC of all complaints of violations or misconduct of certified specialists.
- The Board proposes amendments to 14 CCR § 1650(d)(3) which require that any modifications to a specialty program must be approved by the PFEC prior to implementation, and those modifications which significantly alter the qualification and accountability within the program must additionally be approved by the Board. Additionally, the existing regulations require that any modifications to a certified specialty program which has already received recognition by the Board must be approved by the PFEC prior to implementation and the proposed action requires that any modifications which significantly alter the qualifications and accountability within those recognized certification programs must additionally be approved by the Board.
- The proposed amendment to 14 CCR § 1650(d)(4) requires that that professional societies and public agencies with certification programs which have been recognized by the Board, submit to the Executive Officer of the PFEC a report annually prior to March 1st. Additionally, the proposed amendment provides that, if a professional society or public agency fails to submit a specified report to the Executive Officer of the PFEC, then the Board may rescind its recognition of the certification program, which is consistent with the provisions within 14 CCR § 1650(h).
- The proposed amendment to 14 CCR § 1650(e) requires that, upon Board recognition of an independent certification program, the public agency or professional society must make the terms of the certification program available to the public, and those terms must be posted on the Board's website.
- The proposed amendment to 14 CCR § 1650(f) identifies that additional fees may be required by a professional society or public agency responsible for the independent certification program.
- The proposed amendment to 14 CCR § 1650(g) provides that the Board may periodically review an independent certification program which has already been recognized to ensure that it continues to fully protect the public interest, and requires that the Board rescind recognition upon determination that the program no longer protects that interest. The full protection of the public interest is consistent with that which is evaluated upon the initial review of the independent certification within 14 CCR § 1650(c), in that the program must ensure that "...individuals satisfying the requirements of the program possess the requisite experience and general knowledge in the area of practice encompassed by the program."

- The proposed amendment to 14 CCR § 1650(h) provides that the Board may rescind program recognition if it determines that a professional society or public agency fails to comply with the requirements of the section (14 CCR § 1650).
- The proposed amendment to 14 CCR § 1651(a) modifies the definition of a Certified Rangeland Manager as a person who provides services relating to the application of scientific principles to the art and science of managing rangelands to include range on forested landscapes, as defined in PRC § 754, among other conditions.
- The proposed amendment to 14 CCR § 1651(c) requires a potential applicant to submit to the Board evidence that the applicant has met the Certified Rangeland Manager qualifications under the terms of the program, which are publicly available pursuant to 14 CCR § 1650(e), among other requirements.
- The proposed amendments to 14 CCR § 1651(d) formally recognize the independent certification program of CalPac-SRM (formerly the California Section of the Society for Range Managers (CA-SRM)) as a certification program for the Certified Rangeland Management specialty, and also states the conditions under which recognition may be withdrawn.
- Defined terms, proper nouns, and words beginning sentences have been capitalized for grammatical purposes.

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 March 8, 2019).

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. (reference ECONOMIC IMPACT ANALYSIS in ISOR)
- No alternative considered would lessen any adverse economic impact on small business. (reference ECONOMIC IMPACT ANALYSIS in ISOR)

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

- The Board finds that the existing regulations related to the implementation of the Professional Foresters Law regarding Registered Professional Foresters (RPFs) and Certified Specialties may lack clarity.
- The Board finds that the Professional Foresters Law authorizes the Board to promulgate and amend regulations related to RPFs and Certified Specialties (PRC §§ 751, 759, 772, and 778).
- The Board finds that the adopted alternative is necessary to provide clarity in the regulatory provisions applicable to both RPFs and Certified Specialists. Additionally, the adopted alternative is necessary to improve the clarity of existing regulations with regards to the disciplinary process and professional standards and responsibilities for RPFs, the Certified Rangeland Manager specialty and any future Certified Specialties that may be approved by the Board for a private society or public agency.
- The Board finds that the adopted alternative improves the functioning of the disciplinary process for RPFs and CRMs and clearly defines the organizational framework for any future Certified Specialty.
- The Board also finds that the adopted alternative promotes fairness and equity through a clearly defined, efficient, and improved professional disciplinary process.
- 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.

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 clarity which are present within the existing regulations. Additionally, this lack of clarity may affect not only existing certified specialties, but any future certified specialties which may exist in the future.

Alternative 2: Make Existing Regulation Less Prescriptive

This action could include greatly simplifying the Registration of Professional Foresters Rules, Title 14, California Code of Regulations, Chapter 10 and create one standard regulatory section for all Registered Professional Foresters and Specialty Certificates.

This alternative was rejected because the existing statutory requirements for the registration of professional foresters and Certified Specialists are too disparate for unification. Statute does not allow for a public agency or professional society to submit an independent certification program for professional foresters, but this is the basis of the Certified Specialist program.

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 MARCH 8, 2019

Comment W1-1: Mindy Nicoletti, President, Cal-Pac SRM, and Susan Edinger Marshall, Chair, CRM Panel, Cal-Pac SRM

“Our organization has reviewed the Board of Forestry’s proposed amendments to Title 14 of the California Code of Regulations (14 CCR, Division 1.5, Chapter 10). We wish to express our support for the amendments as proposed and agree with the Board of Forestry’s assessment that these changes provide important clarity regarding the regulatory provisions and disciplinary process applicable to Registered Professional Foresters (RPFs), Certified Rangeland Managers (CRMs), and potential additional

Certified Specialists.

Thank you for the consideration and attention you have paid to this matter.”

Board Response: The Board appreciates the support of Cal-Pac SRM.

Rule Text Change: No.

**VERBAL COMMENTS RECEIVED DURING THE INITIAL HEARING CONDUCTED
MAY 9, 2019**

Helge Eng, Deputy Director, Resource Management, CAL FIRE

CAL FIRE supports the rule package.

Board Response: The Board appreciates the support of CAL FIRE.

Rule Text Change: No.

George “YG” Gentry, Cal Forests

Mr. Gentry supports the rule package.

Board Response: The Board appreciates the support of Mr. Gentry.

Rule Text Change: No.

**WRITTEN COMMENTS AND RESPONSES RESULTING FROM 15-DAY NOTICE OF
ADDITION OF DOCUMENTS AND INFORMATION TO RULEMAKINGFILE AND
MODIFIED TEXT PUBLISHED DECEMBER 20, 2019**

No comments were received during this period