

Board of Forestry and Fire Protection

NOTICE OF PROPOSED ACTION

“Vegetation Treatment in the Watercourse & Lake Protection Zone” Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Article 6. Chapter 4: Subchapter 4, 5, & 6

[Notice to be Published June 6, 2025]

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 24, 2025, at its regularly scheduled meeting commencing at 9:00 a.m., in the Natural Resources Building, 715 P Street, Sacramento, CA. 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.

Attendees may also participate via the online meeting platform or telephone conferencing. To participate via the online meeting platform please email PublicComments@bof.ca.gov by 4:30 p.m. on July 23, 2025, to request a link to the meeting. A link to the meeting will also be posted under the “Webinar Information” heading on the front page of the Board website, no later than 8:00 a.m. the morning of the hearing.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. All written comments must be received by the Board office via mail, facsimile, e-mail, or hand delivery no later than the end of the day **July 24, 2025**.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Daniel Craig
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
Attn. Daniel Craig
715 P Street
Sacramento, CA 95814

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: Authority cited: Sections 4551, 4551.5, 4552, 4553, 4562.7 and 21000(g), Public Resources Code.

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

Title 14 California Code of Regulations, Article 6, Intent of Watercourse and Lake Protection, 14 CCR §§ 916, [936, 956] states “The purpose of this article is to ensure that Timber Operations do not potentially cause significant adverse site-specific and cumulative Impacts to the beneficial uses of water, native aquatic and Riparian-associated species, and the beneficial functions of Riparian zones; or result in an unauthorized take of listed aquatic species; or threaten to cause violation of any applicable legal requirements.” It also states “It is the intent of the Board to restore, enhance, and maintain the productivity of Timberlands while providing appropriate levels of consideration for the quality and beneficial uses of water relative to that productivity. Further, it is the intent of the Board to clarify and assign responsibility for recognition of potential and existing Impacts of Timber Operations on Watercourses and lakes, native aquatic and Riparian-associated species, and the beneficial functions of Riparian zones and to ensure all plans, exemptions and emergency notices employ feasible measures to effectively achieve compliance with this article.”

The term “Watercourse and Lake Protection Zone” (WLPZ) refers to a strip of land along both sides of a Watercourse or around the circumference of a lake or spring, where additional practices may be required for protection of the quality and beneficial uses of water, fish and Riparian wildlife habitat, the preservation of other forest resources and for controlling erosion. Section, §§ 916, [936, 956] et seq identifies prescriptive regulations addressing Timber Operations within the WLPZ. These protections address timber falling, use of ground-based equipment, vegetation remaining after timber operations, and other prescriptive watercourse and riparian protections for wildlife and the beneficial uses of water,

Beginning in January of 2023 the Board's Forest Practice Committee began discussions with public and agency stakeholders to address reducing fire intensity within WLPZs. Current vegetation densities within these WLPZs continues to increase the probability of higher intensity fire within these zones. As a result of site conditions and current regulations, riparian buffer areas in forests are often carrying high fuel loads, which lead to greater fire intensity in riparian forests. High intensity wildfire results in an increase in erosion and resultant increase in the sediment loads in streams, with broader impacts to water quality, bank and channel stability, wildlife habitat, and the survival of rare species. In fact, fire severity is a much stronger determinant for soil and watershed responses to fire than the presence of fire itself, and wildfire in these areas is more severe than it was historically. With the impacts of climate change resulting in additional changes in fire regimes and watershed function, work to protect riparian corridors from catastrophic wildfire is particularly relevant.

Decades of fire suppression have impacted forest conditions such that forest fuel loads are increasing, contributing to higher fire intensities. Timber harvesting and fuel reduction activities are increasingly becoming fundamental disturbances on the landscape and in sensitive areas such as riparian corridors to reduce fire intensity. The goal is not the complete suppression of fire across the landscape; rather the modification of fuel densities to help reduce the intensity of fire, so that it is a beneficial ecological element within the forested landscape. Environmental considerations are especially important to consider when evaluating fire impacts on the riparian area and watercourse. Several environmental concerns arise regarding soil and water quality, light and energy dynamics, and wildlife habitat and conservation. As a result, in sites with high risk for high severity fire which would severely impact watershed processes, the potential impacts from fuel reduction efforts may represent lower long-term impacts.

Harvest in watercourse and lake protection zones is possible under §§ 916.1, [936.1, 956.1] as an in lieu practice. However, this in lieu practice has had difficulties in implementation due to a lack of clear guidelines for review team staff. Rather than an established top-down regulatory program that represents a consistent interpretation of the scientific literature on this subject, the review team staff are responsible for independently reviewing the scientific literature and deciding on harvests in the WLPZ. In lieu practices to reduce WLPZ fuel loads have been used very rarely. There is a need for a scientifically supported regulatory framework for wider implementation of fuel reduction in the WLPZ.

The rule plead as presented adds an additional regulatory subsection (§§ 916.13, [936.13, 956.13] to Article 6. The Board has added this section to provide regulation to accomplish the goal of fuel reduction within the WLPZ. The intent of this rule plead is to adopt a standard rule to allow ground-based harvest operations within the WLPZ for the purpose of reducing overall fuel loads and the horizontal and vertical continuity of fuels which contribute to the spread of wildland fire within these zones and reduce the intensity of wildland fire, providing protection for the beneficial uses of water, riparian zones and riparian habitats.

The **problem**: Current Forest Practice Rules limit operations in the Watercourse Lake and Protection Zones (WLPZ). The use of heavy equipment for felling or yarding trees or for the modification of horizontal and vertical vegetative fuel loads is not permitted. Considering the change in forest stand conditions due to the suppression of wildland fire, associated riparian areas and the nearby watercourses have increased vegetative fuel loads, which increases the severity and intensity of wildland fire across the landscape. Efforts to reduce vegetative fuel loads has been occurring across the landscape with the intent to reduce the effect wildland fire has on the forested landscape, however, efforts to reduce fuel loads within the riparian areas have not been commensurate; thus, fire intensity has been high or severe in these areas effecting waterways and wildlife functions of the riparian areas. Current regulations were developed at a time when equipment used for timber harvesting had limited capabilities and a higher level of concern for ground disturbance. Additionally, forest conditions and fuel loading was significantly less than they are today. Lastly, climatic conditions did not have as much of an influence on wildland fires as they do today due to climatic changes such as global warming. There is a need for a scientifically supported regulatory framework for wider implementation of fuel reduction in Watercourse and Lake Protection Zones.

The **purpose**: This rule plead provides a regulatory process by identifying the regulatory guidance to RPFs and review teams. RPFs will have regulatory guidelines needed to facilitate fuel reduction and timber operations within the WLPZ while providing for the beneficial uses of water and wildlife values within the riparian zone. Both the RPF preparing a timber harvesting document, and the reviewing agencies will have a better understanding of the protective measures to be utilized in the development of and use of heavy equipment use within the WLPZ for the purpose of fuels reduction and timber harvesting while protecting the beneficial uses of water and wildlife species. The goal of this rule section is to facilitate the reduction of fuel loads contributing to wildland fire while maintaining the protection of the resources of California. Additionally, these prescriptive regulations will help reduce discussion during the review of THPs since review agencies and departments have assisted with the development of the rule language.

The **effect** of the proposed action is to: 1) provide clarity to RPFs and reviewing agencies on prescriptive processes allowable for the use of heavy equipment within the WLPZ for the reduction of fire fuels and timber harvesting within the WLPZ, while maintaining riparian functionality; 2) provide the option for landowners to modify fuel loading within the WLPZ, potentially reducing fire intensity in the WLPZ; 3) provide prescriptive and enforceable guidelines to be implemented by providing clear language for timber harvesting preparation and multiagency review; 4) provide enforceable standards for the protection of the beneficial uses of water and wildlife habitats.

The **benefit** of the proposed action is the potential reduction of the vertical and horizontal continuity of fuel loads which contribute to the intensity and spread of wildfire within riparian zones while maintaining for the protection of the beneficial uses of water

and wildlife habitats associated with riparian zones. These regulations as written provide a comprehensive regulatory scheme which allows for the clear and consistent application and enforcement of the Forest Practice Rules related to heavy equipment use within the WLPZ.

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 regulating equipment use in timber operations near watercourses on private land. 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 an expansion of existing regulations related to the beneficial uses of water, native aquatic and Riparian-associated species, and the beneficial functions of Riparian zones 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 (by making it costlier to produce goods or services in California).

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 forest practice 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)). The proposed action will allow for the reduction of horizontal and vertical fuel loads existing in the Watercourse & Lake Protection Zone with the goal of decreasing fire intensity within these zones. This will improve the health, welfare and safety for fire fighters engaged in fire suppression activities. The Beneficial uses of water and riparian functions for wildlife will benefit from the reduction of horizontal and vertical fuel loads which contribute to increased fire intensity.

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

Persons engaged in timber harvesting and vegetation management will have an opportunity to manage the horizontal and vertical fuel loads within Watercourse and Lake Protection Zones due to the regulations developed under this rule. The rule only provides an opportunity for land management and does not increase cost impacts on businesses or persons.

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 regulation may affect small business, though small businesses, within the meaning of GOV § 11342.610, are not expected to be significantly affected by the proposed action.

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.

CONSIDERATION OF ALTERNATIVES

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considered, 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: Daniel Craig
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Craig is not available is Jane VanSusteren Regulation program Coordinator for the Board of Forestry and Fire Protection. Mrs. VanSusteren 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 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 submitted comments during the public comment period, 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/>