Board of Forestry and Fire Protection

NOTICE OF PROPOSED ACTION

Fire Risk Reduction Community List Amendments, 2025

Board of Forestry and Fire Protection

Title 14 of the California Code of Regulations

Division 1.5, Chapter 7,

Subchapter 1, Article 3

[Notice to be Published in Notice Register December 6, 2024]

# 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 January 22, 2025, at its regularly scheduled meeting commencing at 9:00 a.m., in a conference room on the second floor, RM 2-302, of 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 January 21, 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. The written comment period ends on January 22, 2025, at the conclusion of the public hearing.

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: Marcie Yates

Land Use Planning 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

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)

# Authority cited: Section 4290.1, Public Resources Code. Reference: Sections 51177 and 51178, Government Code; and Sections 4102, 4125, 4126, 4127 and 4290.1, Public Resources Code.

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

California Public Resources Code Section 4290.1, a provision of Assembly Bill 1823 passed in 2019 (Chapter 399), requires the State Board of Forestry and Fire Protection (Board) to develop criteria for and maintain a list of Local Agencies located in a State Responsibility Area (SRA) or Very High Fire Hazard Severity Zone (VHFHSZ) which meet best practices for local fire planning. Public Resources Code Section 4124.7 requires that the Department of Forestry and Fire Protection (Department) prioritize local assistance grant funding applications from Local Agencies based on this Fire Risk Reduction Communities List (List). Additionally, the Department of Insurance “Safer From Wildfires” regulations in Title 10, Section 2644.9(d), require insurance companies to use a rating plan that takes into account and reflects whether a structure is in a Fire Risk Reduction Community. Public Resources Code 4290.1 requires the Board to consider criteria relating to the Board’s fire safety standards and recommendations as well as community-based plans or programs that demonstrate dedication to fire planning. By qualifying for the List, a Local Agency demonstrates both compliance with the Board’s requirements and dedication to fire planning that exceeds state minimum standards. To promote equity, the regulations include additional avenues for low-income Local Agencies to qualify for the List and therefore receive priority for local assistance grant funding and appropriate insurance ratings plans.

Currently the list is updated every other year, to be effective July 1st of even-numbered years, pursuant to 14 CA Code of Regs 1268.03. The first iteration of the list was published in July of 2022. The most recent iteration of the list was published in July of 2024. FRRCL applications have nearly doubled between the first cycle in 2022 and the most recent in 2024. As the program continues to gain interest, the number of applicants is expected to continue to increase in subsequent cycles.

The problemis that the current regulations contain errors, outdated data, incorrect language, lack of clarity for applicants, and an insufficient timeline to support the programs growing demands. The current definition of low-income agency relies on data from 2019 which is increasingly inaccurate. The term “Fire Safety Survey” is ambiguous which has caused confusion in the implementation of the regulation. Current regulation for subdivision map submission to the Board contains an error in the effective year of implementation causing it to be out of conformance with statute. The term tribal agency is inaccurate with cultural language. With only one point of contact and no position title there was no way to reach an applicant if they left their position during the application process. Finally, the timeline established for the application review period, is not sufficient to keep pace with the growing number of applicants resulting from increased awareness of the program combined with the list being utilized beyond its original intended scope.

Thepurpose of the proposed action is to amend outdated and erroneous information in current regulation and expand the application review timeline.

The effect of the proposed action is a transparent and clear application process for local agencies, and an enhanced review timeframe so the program can continue to meet the needs and expectations of the regulated public.

The primary benefit of the proposed action is to enhance the effectiveness of the application of the program by creating a sustainable timeline, updating regulations to stay abreast with current data on income, and enhancing regulatory clarity. As a result, this regulatory action will have a positive effect on the implementation of the FRRCL program, benefiting public health and safety via the effective awarding of grants for local wildfire prevention projects.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether 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 measures concerningconversion of timberland 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: Sections 51179(a), 65302.5(b), and 66474.02, Government Code.

Regulations to which the proposed action was compared: Articles 1 and 2, Subchapter 1, Chapter 7, Division 1.5, Title 14, California Code of Regulations; Article 1, Subchapter 2, Chapter 7, Division 1.5, Title 14, California Code of Regulations; Articles 1 and 3, Subchapter 3, Chapter 7, Division 1.5, Title 14, California Code of Regulations; Part 9, Title 24, California Code of Regulations.

# 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 concerningFire Risk Reduction Community List. 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.

# 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 benefit the health and welfare of California residents, worker

safety, and the State environment by reducing the impact of wildfire to residents in the

SRA and VHFHSZ. The potential for placement on this List incentivizes local fire

planning processes or programs that go beyond the minimum requirements,

encouraging more Local Agencies to engage in these processes and programs which

mitigate risks to health, safety and the environment. By meeting the List criteria which

require local fire planning to meet and exceed state minimum standards, jurisdictions

are reducing the potential for a catastrophic wildfire that would otherwise result in losses

of life and property and impact smoke-sensitive populations. By reducing the likelihood

that wildfires might become urban conflagrations, the proposed action may improve the

ecological health of the SRA and VHFHSZ landscape, leading to a more natural fire

regime and an improved environment.

# 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 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 not 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. Will not incur a detriment from the enforcement of 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: Marcie Yates

Land Use Planning Program Manager

P.O. Box 944246

Sacramento, CA 94244-2460

Telephone: (916) 653-8007

The designated backup person in the event Mrs. Yates is not available is Alexandra Vest, Wildfire Planning Specialist for the Board of Forestry and Fire Protection. Ms. Vest 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/