**Board of Forestry and Fire Protection**

**FINAL STATEMENT OF REASONS**

**“Very High Fire Hazard Severity Zone Adoption, 2019”**

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

**Division 1.5, Chapter 7, Subchapter 3, Article 1.**

**Adopt**

**§ 1280.00 Definitions**

**§ 1280.02 Very High Fire Hazard Severity Zones in the LRA**

**Amend**

**§ 1280. Fire Hazard Severity Zones**

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

No information contained in the ISOR or supplemental statement of reasons requires update. All material relied upon was identified in the ISOR or supplemental statement of reasons 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 in its 15-Day noticed form.

**MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS (pursuant to GOV §11346.9(a)(2)):**

The adopted regulation imposes a mandate on local agencies which is not reimbursable pursuant to section 17500 of the Government Code.

**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. The mandate imposed to local agencies by the adopted regulation is to submit information via electronic mail, which will take a minimal amount of staff time and does not require funds spent on mailing materials, postage, and other resources.

**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 Noticed**

The Board selected Alternative #3 as proposed and noticed. The Board adopted the rule text published with the 15-Day Notice on November 18, 2019. Additionally, the proposed action is the most cost-efficient, equally or more effective, and less burdensome alternative.

Alternatives 1 and 2 would not be more effective or equally effective while being less

burdensome and impacting fewer small businesses than the proposed action.

**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 SB 1260 (Jackson, 2018) added new requirements to Government Code for local agencies to send certain local ordinances to the Board upon adoption.
* The Board finds that regulations are necessary to interpret, implement, and make specific the requirement in Government Code for local agencies, in order to provide local agencies with clear, consistent information.
* 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 adoptions.

## **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 Alternative**

The Board considered taking no action, since the statutory language added to GC 51179 is rather prescriptive in nature. However, as the Board can expect to receive hundreds of these ordinances over the lifetime of this statute, the Board wanted to create a consistent process by which the documents were received and consistency in the information a local agency must provide the Board. The Board was concerned that placing these requirements in another document would result in an underground regulation.

**Alternative 2: Copying Statute Verbatim**

The Board considered copying statute verbatim into regulation. However, the Board noted a few places that could use further clarification. The statute did not prescribe any specific means or methods by which local agencies shall transmit their VHFHSZ ordinances and maps to the Board, and the Board established that efficiencies would be achieved by doing so.

**SUMMARY AND RESPONSE TO COMMENTS (pursuant to GOV 11346.9(a)(3))**

The Board received one comment on the proposed rulemaking from a state agency.

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.

2nd number (following the hyphen): Represents the specific comment within a written comment or speaker comment. The specific comments are numbered in the order in which they were presented.

**WRITTEN COMMENTS AND RESPONSES RESULTING FROM 45-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED** **JANUARY 11, 2019**

**Comment W1-1: Daniel Nathan, Coastal Program Analyst, California Coastal Commission**

“With regard to the proposed regulations on designating Very high Fire Hazard Severity Zones by local ordinance and submitting a copy of the ordinance to the BoF, we note that new and amended local ordinances in the coastal zone, must be certified by the Coastal Commission and found to be consistent with the LUP and applicable Coastal Act policies before they become effective. As such, in Section 1280.02(a), the requirement to transmit an ordinance within 30 days of local adoption would result in the BoF reviewing an ordinance which has not yet been certified by the Commission and is not yet effective in the local coastal jurisdiction. We recommend that the proposed regulation Section 1280.02 acknowledge the requirement that in the coastal zone, local ordinances must be certified by the Coastal Commission before they become effective. We are available to discuss this issue further to help determine the most appropriate process for our agencies to review such ordinances.”

**Board Response:** The Board appreciates information from the California Coastal Commission regarding their local ordinance approval process. The Board does not have the authority to review local ordinances adopting Very High Fire Hazard Severity Zones or revise those ordinances as suggested in the Commission’s letter, however. These regulations only implement, interpret, and make specific a requirement that local government send their ordinances to the Board upon adoption as a curtesy notification, and so no revisions to the regulations are necessary. The Board looks forward to collaborating with the Coastal Commission on future projects to reduce wildfire risk in the Coastal Zone.

**Rule Text Change:** **No**

**WRITTEN COMMENTS AND RESPONSES RESULTING FROM 15-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED** **NOVEMBER 18, 2019**

None received.