

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

**“Fuel Hazard Reduction Amendments, 2020”  
(Permanent Rulemaking)  
Title 14 of the California Code of Regulations (14 CCR),  
Division 1.5, Chapter 4  
Subchapters 4, 5, and 6, Article 3;  
Subchapter 7, Article 2  
Amend: §§ 913, 933, 953, 1052, and 1052.4**

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

No information contained in the Initial Statement of Reasons (ISOR) requires an update. All material relied upon was identified in the ISOR 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 45-Day noticed form.

**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 20, 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

**Board of Forestry and Fire Protection**  
**DRAFT DOCUMENT**

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 less than 100 employees.

**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 wildfire activity in California is significant and ongoing and unlikely to decrease in the near future.
- The Board finds that hazardous forest fuel conditions represent a significant risk and hazard to public health and safety.
- The Board finds that ministerial permitting options for forest management are valuable tools in providing regulatory relief for landowners and can incentivize forestland owners to engage in management activities that may benefit the public or aid in accomplishing statewide management goals related to fuel reduction.
- The Board finds that Public Resources Code § 4592 authorizes the Board define emergencies by which a Registered Professional Forester "...may in an emergency, on behalf of a timber owner or operator, file an "emergency notice" with the department that shall allow immediate commencement of timber operations."
- The Board finds that the adopted alternative is consistent with the purposes of the Z'Berg-Nejedly Forest Practice Act of 1973 in that it provides an additional element to an existing comprehensive regulatory forest management scheme which allows for the restoration and improvement of timberlands through the reduction in hazardous fuels from the landscape which may prove detrimental to future forest health conditions and public safety.
- The Board finds that the adopted alternative is necessary to implement the

**Board of Forestry and Fire Protection**  
DRAFT DOCUMENT

aforementioned regulatory revisions in order to provide a clear and simplified regulatory pathway for the emergency reduction of hazards and to assist and streamline statewide fuel treatment efforts.

- The Board finds that the adopted alternative will ease the regulatory burden of fuel hazard reduction permitting efforts statewide.
- 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 problem.

The Board rejected this alternative as it does not address the existing issue of dead and dying trees impeding construction and reconstruction efforts and creating safety hazards within areas which are affected by significant wildfire events.

**Alternative 2: Take Action to Make Existing Regulation Less Prescriptive**

This alternative would eliminate the prescriptive requirements and restrictions of 14 CCR § 1052.4(d)(4)(A) *et seq.* in favor of performance-based regulations.

The Board rejected this alternative as it would create issues of clarity, enforceability, and implementation as well as potentially increasing fuel hazard within already hazardous areas. The prescriptive fuel treatment requirements are necessary to immediately reduce hazardous fuel conditions.

**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 20, 2020**

**Comment W1-1: David Longstreth, Acting Supervising Engineering Geologist,  
California Geological Survey (dated April 13, 2020)**

**Comment:** “As you may be aware, over the years CGS has worked with CALFIRE in response to evaluation of Post-Fire debris flows following significant wildfires. CGS has played a lead role in development of these types of evaluations, including documenting post-fire landslide events.

We would like to bring to your attention that the emergency rule language uses the term “mudslides” several times. We would respectfully ask that the word “mudslides” be changed to “post-fire debris flows, sediment laden floods, and landslides”. This would be a more technically correct term and would be more correctly tied to literature regarding this subject.”

**Response:** While the Notice of Proposed Action and previous Notices of Proposed Emergency Action related to the proposed action used the term “mudslide”, as identified by Mr. Longstreth, the proposed rule language does not use the term. The use of the term in these previous documents does not create significant issues of clarity or understanding which would merit the revision and subsequent re-noticing of these documents, however the Board does appreciate the feedback of Mr. Longstreth and will incorporate the suggested, more technically precise, language in future actions, where appropriate.

**Change to Rule Text: NO**

**Comment W1-2: David Longstreth, Acting Supervising Engineering Geologist,  
California Geological Survey (dated April 13, 2020)**

**Comment:** “We also respectfully ask that the following be included in the list of evidence of the immediate and necessary need for emergency regulations:

The Department of Conservation, California Geological Survey, is working on development of pre-fire mapping that will be conducted to identify high hazard urbanized areas statewide that are subject to the fire-flood sequence and can be utilized to inform mitigation activities and reduce losses to life and property through flash flood/debris flow risk awareness and evacuation planning.

Ultimately it is our thought that the overlap of areas of high fuel concentrations and areas prone to post-fire debris flows that can impact the urban interface would be considered the highest priority areas to conduct fuel reduction activities.”

**Response:** The current proposed action, which is the permanent adoption of rule text (which had previously been adopted as emergency regulations pursuant to Section 11346.1 of the Government Code) in compliance with Sections 11346.2 to 11347.3, inclusive, of the Government Code, does not include or require substantiation or

**Board of Forestry and Fire Protection**  
**DRAFT DOCUMENT**

evidence of emergency conditions, nor are those conditions required per the above stated range of code. The Board appreciates and supports the efforts of the Department of Conservation, California Geological Survey, with regard to the development of pre-fire mapping tools.

**Change to Rule Text: NO**

**Comment W2-1: Helge Eng, Deputy Director, Resource Management, CAL FIRE (dated June 10, 2020)**

**Comment:** “The California Department of Forestry and Fire Protection (CAL FIRE) has reviewed the proposed rule text and the Initial Statement of Reasons (ISOR) for the 45-day Notice of Rulemaking entitled, “Fuel Hazard Reduction Amendments, 2020” [Permanent Rulemaking]. The proposed rulemaking is directed toward reduction of wildfire-related risk to life, property, and the environment through strategic implementation of fuels treatments. As stated in the ISOR, the Board intends this proposed action to increase utilization of the existing Emergency Notice for Fuel Hazard Reduction rules (Forest Practice Rule Section 1052.4) to address hazardous fuels conditions statewide. CAL FIRE supports adoption of the rulemaking proposal as noticed and hopes the Board’s adoption of this rulemaking proposal will indeed encourage increased fuels treatments in locations of greatest benefit to California’s communities.

**Response:** The Board appreciates the support of the Department.

**Change to Rule Text: NO**

<b>VERBAL COMMENTS RECEIEVED DURING THE INITIAL HEARING CONDUCTED JUNE 10, 2020</b>
---

**Comment S1-1: David Longstreth, Acting Supervising Engineering Geologist, California Geological Survey**

**Comment:** Mr. Longstreth re-iterated his preference for more technically precise language as stated in his public comment letter dated April 13, 2020.

**Response:** Please see response to Comment W1-1.

**Change to Rule Text: NO**

**Comment S2-1: Eric Huff, Staff Chief, Forest Practice, Resource Management, CAL FIRE**

**Comment:** Mr. Huff has reiterated the support of the Department as stated in their letter dated June 10, 2020.

**Board of Forestry and Fire Protection**  
DRAFT DOCUMENT

**Response:** The Board appreciates the support of the Department.

**Change to Rule Text: NO**