

Board of Forestry and Fire Protection

Final Statement of Reasons (FSOR), pursuant to GOV § 11346.9(a)

“LTO EDUCATION AND LIMITED LTO”

Board of Forestry and Fire Protection

Title 14 of the California Code of Regulations (CCR) Division 1.5, Chapter 4

Subchapter 7, Article 1

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 (that have regulatory effect) are summarized below.

- § 1025: The schedule of fees which is required for all license types has been identified within regulation.
- § 1025: The shorthand designation for the applicable license types is clarified within this fee section.

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 April 10, 2020), and revised in response to a staff recommendation which generated a 15-Day Notice (dated June 24, 2020), with additional revisions without regulatory effect.

The Board has determined that this alternative is the most cost-efficient, equally or more effective, and least burdensome alternative. This is the preferred alternative as it represents a product based upon compromise and the greatest degree of consensus achievable at the time the Board authorized noticing these regulations, which reflect public input and the input of agency representatives.

Alternatives 1 and 2 would not be more effective or equally effective while being less burdensome or impact fewer small businesses than the selected alternative.

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 current regulations surrounding Timber Operator licensing lack clarity with regard to the manner in which they may be obtained, issued, and other basic conditional restrictions of the licenses.
- The Board finds that completion of approved timber operator education programs for first time license applicants will promote awareness of statutes and regulations governing timber harvesting which are intended to promote environmental quality.
- The Board finds the improvement in educational requirements for license applicants will likely result in improvements in environmental quality pertaining to Timber Operations.

- The Board finds these amendments improve the clarity and consistency of existing regulations surrounding timber operator licenses, and clearly implement existing statutory requirements within the related regulations.
- 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.
- The Board finds public and agency representatives reviewed and provided input into 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 Alternative

The Board considered taking no action, but this alternative was rejected because it would not address the problem.

Alternative #2: Take Action to Make Licensing Requirements Less Prescriptive

This action would include greatly simplifying requirements for applicants and submission requirements, however it was rejected as it would lead to issues of clarity and consistency between the regulations and their authorizing statutes. The prescriptive statutory requirements are necessary in order to provide a clarity in the acquisition, implementation, and enforcement of timber operator licenses by both the regulated public and the Director.

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.

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.

<p>WRITTEN COMMENTS AND RESPONSES RESULTING FROM 45-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED APRIL 10, 2020</p>

W1-1: Helge Eng, Deputy Director, Resource Management, CAL FIRE

“CAL FIRE Forest Practice Program staff appreciate Board staff’s thoughtful work in the construction of the rulemaking documents, and the Management Committee’s diligent efforts to move them forward. CAL FIRE fully supports the Board’s adoption of Board staff’s recommended rule text (Binder Item “FULL 14(c)”) as noticed.”

Board Response:

The Board appreciates the support of the Department

Rule Text Change: No

<p style="text-align: center;">SPEAKER COMMENTS AND RESPONSES RESULTING FROM THE PUBLIC HEARING CONDUCTED JUNE 10, 2020</p>
--

S1-1: Eric Huff, Staff Chief, Forest Practice, CAL FIRE

Mr. Huff offered support from the Department of Forestry and Fire Protection for the proposed rulemaking and staff recommendation.

Board Response:

The Board appreciates the support of the Department.

Rule Text Change: No

<p style="text-align: center;">WRITTEN COMMENTS AND RESPONSES RESULTING FROM 15-DAY NOTICE OF PROPOSED RULEMAKING DATED JUNE 24, 2020</p>
--

No comments were received during this period.