Board of Forestry and Fire Protection

# NOTICE OF PROPOSED ACTION

## “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

[Notice Published January 11, 2019]

### 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 March 6, 2019, at its regularly scheduled meeting commencing at 9:00 a.m., at the Natural Resources Building Auditorium, 1416 9th 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.

### 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 Monday, February 25, 2019.

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: Edith Hannigan

 Land Use Planning Policy 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

 Room 1506-14

1416 9th Street

 Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

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: Sections 4202, 4203 and 4204, Public Resources Code; Section 51179 Government Code. Reference: Sections 4201, 4202, 4203 and 4204, Public Resources Code.

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

California Government Code Section 51179(a) requires a local agency to designate, by ordinance, very high fire hazard severity zones in its jurisdiction within 120 days of receiving recommendations from the director pursuant to subdivisions (b) and (c) of Section 51178. SB 1260 (Jackson, 2018) revised GC 51179(c) to require local agencies to send those ordinances to the Board of Forestry and Fire Protection (Board) within 30 days of adoption.

The problem is that there are no further instructions for local agencies in regulation.

The purpose of the proposed action is to implement and make specific the Legislature’s requirement in GC 51179(c) that local agencies send their adopted ordinances to the Board.

The effect of the proposed action is to provide local agencies a transparent and consistent process for submitting their ordinances to the Board

The primary benefit of the proposed action is a clear, direct, and standardized process that maximizes efficiency, provides transparency to the regulated public, and is utilized effectively to prevent property and life losses in the wildland-urban interface due to fire. As a result, this regulatory action will have a positive effect on the protection of public health and safety, worker safety, and the environment.

There is no comparable federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**.Board staff assessed existing State regulations related to adopting fire hazard severity zone maps and found no existing 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.

### 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 relating to the adoption of fire hazard severity zone maps. 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 any costs or savings 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 experience regulating fire hazard severity zones and fire safe land use planning in California that the Board brings to bear on regulatory development.
* Discussions with Department of Forestry and Fire Protection staff on implementation of the enabling statute, GOV § 51179.

### 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:

(A) will not create jobs within California;

(A) will not eliminate jobs within California;

(B) will not create new businesses;

(B) will not eliminate existing businesses within California;

(C) will not affect the expansion or contraction of businesses currently doing business within California;

(D) will yield nonmonetary benefits through the mitigation of wildfire risk in the planning area and additional government transparency. Due the adoption of consistently-determined fire hazard severity zones to protect wildland-urban interface areas, the protection of health and welfare of California residents, worker safety, and the state’s environment will benefit in perpetuity.

### 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)

Small businesses, within the meaning of GOV § 11342.610, are not expected to be 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) does not incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

Pursuant to 1 CCR § (4)(b), the reason(s) the regulation does not affect small business is because the regulation requires local government, not small business, to designate these specific very high fire hazard severity zones. Further analysis is provided in our Economic Impact Analysis in the Initial Statement of Reasons.

### CONSIDERATION OF ALTERNATIVES

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: Edith Hannigan

 Land Use Planning Policy Manager

 P.O. Box 944246

 Sacramento, CA 94244-2460

 Telephone: (916) 653-8007

The designated backup person in the event Ms. Hannigan is not available is Eric Hedge, Regulations Coordinator for the Board of Forestry and Fire Protection. Mr. Hedge 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:

<http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/>