

Board of Forestry and Fire Protection

NOTICE OF PROPOSED ACTION

“Subdivision Map Findings, 2019”

**Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 7, Subchapter 4, Article 2**

**Adopt
Subchapter 4 Fire Protection Planning
Article 2 Subdivision Map Findings
§ 1266.00 Definitions
§ 1266.01 Subdivision Map Findings
§ 1266.02 Reporting the Findings**

[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: Section 66474.02, Government Code; Sections 4202, 4203 and 4204, Public Resources Code. Reference: Section 66474.02, Government Code; 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 66474.02, a provision in the Subdivision Map Act, requires a legislative body of a county to make two findings before approving a tentative map, or a parcel map for which a tentative map is not required, for a subdivision within the State Responsibility Area (SRA) or a Very High Fire Hazard Severity Zone (VHFHSZ). These findings are related to the design of the subdivision for fire protection, including ensuring compliance with Public Resources Code (PRC) 4290 and 4291 and finding that the subdivision has adequate fire protection from a fire agency. By making these findings, the legislative body is asserting that the subdivision is designed and built to meet the state minimum requirements for fire protection, which draws attention to the importance of planning for fire protection and ensuring that in particular, subdivisions in very high fire hazard areas have adequate ingress and egress (PRC 4290) and defensible space (PRC 4291). Compliance with those two sections of code provide for the safe evacuation of a community during any kind of disaster, not just wildfires, and also provide a safer environment for firefighters to defend homes from an oncoming

wildfire. This statute also requires that the legislative body must send these findings to the Board of Forestry and Fire Protection.

The problem is that regulations are necessary to implement and make specific the process by which the legislative body must make these findings and submit them to the Board.

The purpose of the proposed action is to develop a transparent, clear, and standardized process for legislative bodies to make the tentative/parcel map findings and transmit them to the Board.

The effect of the proposed action is to create a process by where local legislative bodies have no confusion regarding the process to send the Board their tentative/parcel map findings, and by where the Board is receiving standardized, consistent information regarding those findings from jurisdiction to jurisdiction.

The primary benefit of the proposed action is a clear, direct, and standardized transmission 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 making findings on a subdivision map 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 related to subdivision 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 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 experience regulating fire safe development in California that the Board brings to bear on regulatory development.
- Staff participation in the development of Governor's Office of Planning and Research *Fire Hazard Planning General Plan Technical Advice Series*, May 2015.
- Discussions with Department of Forestry and Fire Protection staff on implementation of the enabling statute, GOV § 66474.02.

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 to the consistent implementation of these regulations 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 § (b), the reason(s) the regulation does not affect small business are the same as provided in the Economic Impact Analysis in the Initial Statement of Reasons.

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: 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/