

Board of Forestry and Fire Protection

INITIAL STATEMENT OF REASONS

“Camping Fee Amendments, 2020”

DRAFT DOCUMENT

**Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 9,
Subchapter 1, Article 2
Amend: §1401.1**

INTRODUCTION INCLUDING PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS (pursuant to GC § 11346.2(b)(1))...NECESSITY (pursuant to GC § 11346.2(b)(1) and 11349(a))....BENEFITS (pursuant to GC § 11346.2(b)(1))

PRC 4656.1 provides the Board of Forestry and Fire Protection (Board) authority to “...establish rules and regulations...for the preservation, protection, and use of state forests...” and PRC § 4652 allows the Department of Forestry and Fire Protection (CAL FIRE) to “collect recreational user fees for overnight camping and reserved group activities in a demonstration state forest”, provided that those fees do not exceed the costs of maintenance of and improvements to the campgrounds and associated facilities, environment, and access.

Demonstration state forests are forest lands which are owned by the state and managed and administrated by CAL FIRE. Currently, there are eight demonstration state forests throughout California, totaling over 69,000 acres. These public lands are managed to focus on demonstration of commercial timber management, plantation management, ecosystem restoration, fire prevention, recreation, and monitoring. Though the extent by which recreational opportunities are available varies among the state forests, many of the forests offer extensively developed camping, hiking, hunting, and fishing opportunities to the public.

Though all management activities require some form of initial cost, the administration and management of recreational opportunities within the state forests present significant and ongoing capital requirements. CAL FIRE spends roughly \$391,600 annually on the maintenance and development of recreational facilities on the state forests for the enjoyment of the public.

The problem is that increasing demand and use of recreational facilities on some of the state forests has resulted in growing costs of maintenance and development of these resources. When the Board initially adopted fees for the Demonstration State Forests in 2018, it was understood that the fees which were established were insufficient to cover the full costs of maintaining and improving campgrounds. Since that time, however, the

Department has a desire to increase funding in order to cover more of the costs of maintaining and improving the campgrounds.

Additionally, the existing schedule of fees requires a fee for overnight camping and an additional fee for an additional vehicle at designated camping areas, with a maximum of two vehicles. The Department has indicated that implementation and enforcement of this provision has been difficult and that simplified regulations which allow for two vehicles under the standard camping fee would make enforcement of these provisions more efficient.

The effect of this proposed action is to revise and simplify the fees for overnight camping at specific demonstration state forests.

The primary benefit of the proposed action is to provide funds for the ongoing maintenance and improvement of campgrounds and associated facilities on Jackson, Mountain Home, and Boggs Mountain Demonstration State Forests. These funds will allow CAL FIRE to provide continued recreational opportunities to the regulated public and allow for improvements to existing camping and bathroom facilities, thereby ensuring maintained environmental quality in those areas.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL (pursuant to GOV § 11346.2(b)(1)) AND THE RATIONALE FOR THE AGENCY'S DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSE(S) OF THE STATUTE(S) OR OTHER PROVISIONS OF LAW THAT THE ACTION IS IMPLEMENTING, INTERPRETING OR MAKING SPECIFIC AND TO ADDRESS THE PROBLEM FOR WHICH IT IS PROPOSED (pursuant to GOV §§ 11346.2(b)(1) and 11349(a) and 1 CCR § 10(b)). *Note: For each adoption, amendment, or repeal provide the problem, purpose and necessity.*

The Board is proposing action to make permanent, through regular rulemaking, amendments to 14 CCR § 1401.1.

The problems are:

- Costs associated with the maintenance and improvement of camping facilities and associated infrastructure on state forests are becoming an increasingly large portion of the budget of some state forests.
- The enforcement of current regulatory fees for additional vehicles is difficult and results in inefficiencies in implementation.
- CAL FIRE would like to increase and simplify fees for overnight camping to assist in funding the maintenance and improvement of campgrounds and associated recreational facilities.

The purpose of the proposed action is to adopt regulations which increase the fees collected by CAL FIRE for overnight camping and to simply the schedule for these increased fees.

§1401.1 (a)

1. This subsection details the schedule of fees required for use of designated camping areas within Jackson and Boggs Demonstration State Forests. The purpose of these amendments is to clarify the new fee which is required at a designated camping area and to clarify that that fee provides for the use of two vehicles, where previously an additional fee was required. These are necessary to inform the regulated public of the costs of use of designated camping areas.

§1401.1 (b)

1. This subsection details the schedule of fees required for use of designated camping areas and pre-designated group campgrounds within Mountain Home Demonstration State Forest. The purpose of these amendments is to clarify the new fee which is required at a designated camping area and to clarify that that fee provides for the use of two vehicles, where previously an additional fee was required. These are necessary to inform the regulated public of the costs of use of designated camping areas.

ECONOMIC IMPACT ANALYSIS (pursuant to GOV § 11346.3(b)(1)(A)-(D) and provided pursuant to 11346.3(a)(3))

The effect of the proposed action is the following:

- To revise and simplify the schedule of fees for overnight camping.

Creation or Elimination of Jobs within the State of California

The proposed action increases the fee for use of camping facilities on state forests and will not affect private businesses or jobs. This represents a continuation of existing regulation on state forests and does not impose any additional requirement that could affect jobs. No creation or elimination of jobs will occur.

Creation of New or Elimination of Businesses within the State of California

The regulatory amendments, as proposed, increases the fee for use of camping facilities on state forests and will not affect private businesses or jobs. It is expected that the proposed regulation will neither create new businesses nor eliminate existing businesses in the State of California.

Expansion of Businesses Currently Doing Business within the State of California

The proposed action increases the fee for use of camping facilities on state forests and will not affect private businesses or jobs. This represents a continuation of existing regulation on state forests and does not impose any additional requirement that could affect businesses. The proposed action will not result in the expansion or contraction of businesses currently doing business within the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The primary benefit of the proposed action is to provide additional funds for the ongoing maintenance and improvement of campgrounds and associated facilities on Jackson, Mountain Home, and Boggs Mountain Demonstration State Forests. These funds will

allow CAL FIRE to provide continued recreational opportunities to the regulated public and to allow for improvements to existing camping and bathroom facilities, thereby ensuring maintained environmental quality in those areas and possibly having a positive impact on the mental health and wellbeing of individuals who use these facilities.

Business Reporting Requirement (pursuant to GOV § 11346.5(a)(11) and GOV § 11346.3(d))

The proposed regulation does not require a business reporting requirement.

Summary

In summary, the proposed action:

- Will not create jobs within California (GOV § 11346.1(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.1(b)(1)(A));
- Will not create new businesses within California (GOV § 11346.1(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.1(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.1(b)(1)(C)); and
- Will yield nonmonetary benefits (GOV § 11346.1(b)(1)(D)). For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the “Introduction Including Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address”.

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 is the increase and simplify the fees for overnight camping within some of the Demonstration State Forests administered by CAL FIRE. These fees will only effect individuals who are seeking to camp overnight at Jackson, Boggs Mountain, and Mountain Home Demonstration State Forest. These fees will not impact industries, businesses (including small businesses), the creation or elimination of businesses, the creation or elimination of jobs, or the ability of California businesses to compete economically.

The proposed action will impact individuals who seek to camp overnight at Jackson, Boggs Mountain, and Mountain Home Demonstration State Forests.

The following is an estimate for annual camping use at each state forest, as identified by state forest program staff:

Jackson DSF: 2,190 uses of designated camping areas annually.

Mountain Home DSF: 3,300 uses of designated camping areas annually.

Boggs Mountain DSF: 170 uses of designated camping areas annually.

Total of ~5,600 uses of designated camping areas annually.

It is assumed that those use figures will remain constant following the increase in fee, in order to provide a conservative estimate for potential statewide economic impact. Additionally, it can be assumed that under the previous regulatory fee scheme, 60% of state forest designated camping area users utilized only one vehicle, and were therefore subject to the \$15 rate, and the remaining 40% of users utilized two vehicles and were subject to the full \$20 rate.

Under these assumptions, the following calculations have been made:

The economic impact to designated camping area users at Jackson Demonstration State Forests is \$17,520 (see calculations below):

$$[(60\% \times 2190 \text{ total users}) \times \$10 \text{ difference in fee}] + [(40\% \times 2190 \text{ total users}) \times \$5 \text{ difference in fee}] = [\$13,140] + [\$4,380] = \$ 17,520$$

The economic impact to designated camping area users at Boggs Mountain Demonstration State Forests is \$17,520 (see calculations below):

$$[(60\% \times 170 \text{ total users}) \times \$10 \text{ difference in fee}] + [(40\% \times 170 \text{ total users}) \times \$5 \text{ difference in fee}] = [\$1,020] + [\$340] = \$ 1,360$$

The economic impact to designated camping area users at Mountain Home Demonstration State Forest is \$42,900 (see calculations below):

$$[(60\% \times 3300 \text{ total users}) \times \$15 \text{ difference in fee}] + [(40\% \times 3300 \text{ total users}) \times \$10 \text{ difference in fee}] = [\$29,700] + [\$13,200] = \$ 42,900$$

From the calculations above, it can be expected that total economic impact of the proposed action is \$61,780 annually, which will be borne by individuals.

This value, when combined with current average annual camping fee revenue (\$49,814 for Mountain Home DSF, \$2,500 for Boggs Mountain DSF, and \$32,908 for Jackson DSF) results in a total estimated revenue of approximately \$147,000, which is significantly smaller than the costs of maintaining and improving the recreational facilities at these demonstration state forests, which are estimated at approximately \$391,600 (\$236,749 for Mountain Home DSF, \$55,252 for Boggs Mountain DSF, and \$99,580 for JDFS). This is entirely compliant with the requirements of PRC § 4652.

Though there are no monetary benefits to individuals under the proposed action, there are non-monetary benefits. The primary benefit is to provide funds for the ongoing maintenance and improvement of campgrounds and associated facilities on Jackson, Mountain Home, and Boggs Mountain Demonstration State Forests. These funds will allow CAL FIRE to provide continued recreational opportunities to the regulated public and to allow for improvements to existing camping and bathroom facilities, thereby ensuring maintained environmental quality in those areas.

The proposed action will not have a significant statewide adverse economic impact on 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))

The fiscal and economic impact analysis for these Exemption Amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience of administering state forest law in California that the Board brings to bear on regulatory development, as well as by cost and revenue data provided to the Board by CAL FIRE.

The fees amended in this proposed action associated with overnight camping on state forests may have economic and fiscal impact. The assessment of these impacts includes:

- Information provided by CAL FIRE regarding the use of campsites and the associated costs of maintenance of and improvements to the recreation facilities on state forests.
- Contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience practicing forestry in California that the Board brings to bear on regulatory development.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT RELIED UPON (pursuant to GOV SECTION 11346.2(b)(3))

The Board relied on the following list of technical, theoretical, and/or empirical studies, reports or similar documents to develop the proposed action:

1. State Board of Forestry and Fire Protection Policy Chapter 0350 "Forest Management Policies", Updated July 19, 2018.
2. Unpublished State Forest Costs and Revenue Spreadsheet, CAL FIRE, March 2020.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION CONSIDERED BY THE BOARD, IF ANY, INCLUDING THE FOLLOWING AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES (pursuant to GOV § 11346.2(b)(4)(A) and (B)):

- **ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACTS ON SMALL BUSINESS AND/OR**
- **ALTERNATIVES THAT ARE 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**

The alternatives provided herein are provided pursuant to the APA (**GOV § 11346.2(b)(4)**) exclusively.

The Board has considered the following alternatives and rejected all but the “Proposed Action” alternative.

Alternative 1: No Action

The Board considered taking no action, but the “No Action” alternative was rejected because it would not address the problems.

The Board rejected this alternative as it does not address the existing issues of consistency and financial endurance which are present within the existing regulations.

Alternative 2: Take Action to Make Existing Regulation Less Prescriptive

This alternative would eliminate the prescriptive requirements of the fee schedule.

The Board rejected this alternative as it would result in fees which are difficult for the public to interpret or implement. Additionally, without explicit control of the fee amount, the Board would not be able to establish that the fees collected do not exceed the amount necessary to fund the costs of maintenance of and improvements to the campgrounds and associated facilities, environment, and access, as statutorily required by PRC 4652. Furthermore, subjecting the public to fees which are the interpretation of statute may result in an underground regulation.

Alternative 3: Proposed Action

The Board accepted the “Proposed Action” alternative to address the problem as it 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 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, having fewer than 100 employees, and having annual gross receipts less than \$1,000,000.

Prescriptive Standards versus Performance Based Standards (pursuant to GOV §§11340.1(a), 11346.2(b)(1) and 11346.2(b)(4)(A)):

Pursuant to **GOV §11340.1(a)**, agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process.

The proposed action does not introduce additional prescriptive or performance based standards, it only seeks to extend an existing mix of performance and prescriptive based standards. Alternative #3 is preferred for the reasons described above and the rationales for individual provisions serves as the explanation for why a standard, if required to be prescriptive, is prescriptive.

Pursuant to **GOV § 11346.2(b)(1)**, the proposed action does not mandate the use of specific technologies or equipment.

Pursuant to **GOV § 11346.2(b)(4)(A)**, Alternatives 1 and 2 were considered and ultimately rejected by the Board in favor of the proposed action. The proposed action does not mandate the use of specific technologies or equipment, but does prescribe specific actions or procedures. Alternatives 1 and 2 considered by the Board require fewer specific actions or procedures but would result in a less effective regulation.

DESCRIPTION OF EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATION (pursuant to GOV § 11346.2(b)(6))

The Code of Federal Regulations has been reviewed and based on this review, the Board found that the proposed action neither conflicts with, nor duplicates Federal regulations. There are no comparable Federal regulations for the administration of state forests.