

Board of Forestry and Fire Protection

NOTICE OF PROPOSED ACTION

**Tractor Operations and Cable Yarding Amendments, 2023
Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations
Division 1.5, Chapter 4,
Subchapters 4, 5, & 6, Article 4**

[Notice Published in Notice Register June 2, 2023]

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 July 26, 2023, at its regularly scheduled meeting commencing at 9:00 a.m., at the Auditorium on the first floor, RM 1-302, of the Natural Resources Building, 715 P 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.

Attendees may also participate via the online meeting platform or telephone conferencing. To participate via the online meeting platform please email PublicComments@bof.ca.gov by 4:30 p.m. on July 26, 2023, to request a link to the meeting. A link to the meeting will also be posted under the "Webinar Information" heading on the front page of the Board website, no later than 8:00 a.m. the morning of the hearing.

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 July 27, 2023.

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: Jane Van Susteren
Regulations Coordinator
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
715 P Street
Sacramento, CA 95814

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)

Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code.

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

Pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, PRC § 4511, *et seq.* (FPA) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

PRC § 4551 requires the Board to "...adopt district forest practice rules... to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources..." and PRC § 4553 requires the Board to continuously review the rules in consultation with other interests and make appropriate revisions.

Furthermore, PRC § 4551.5 requires that these regulations adopted by the Board "...apply to the conduct of timber operations and shall include, but shall not be limited to, measures for fire prevention and control, for soil erosion control, for site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, for water quality and watershed control, for flood control, for stocking, for protection against timber operations that unnecessarily destroy young timber growth or timber productivity of the soil, for prevention and control of damage by forest insects, pests, and disease..."

Prior to the 2020 amendment of 14 CCR §§ 914.3(e)[934.3(e), 954.3(e)], the RPF could propose an exception to the prohibition of the use of tractors in Cable Yarding areas under limited, specific circumstances, including areas of insufficient deflection and "long corners" where cable equipment could not reach. The 2020 amendment provided for Tractor Operations in Cable Yarding areas on slopes up to 50% without accounting for any of the specific conditions identified in the prior rule.

The **problem** that this proposed rulemaking aims to address is that the current regulations do not provide the RPF the ability to propose an exception to the limitation of tractor operations to 50% slope on areas designated for Cable Yarding. Further, the 2020 change in the rules has created the perception that the regulated public can no longer describe a “Cat-Cable Yarding Option” in Plans where there is uncertainty about the timely availability of cable or tractor operators, and either method is “pre-approved” as long as the operational constraints applicable to each are adhered to.

The **purpose** of the proposed action is to re-establish the ability for the RPF to propose an exception that would allow for tractor operations in Cable Yarding areas on slopes greater than 50% where necessary to meet the objectives of 14 CCR §§ 914 [934, 954]. It seeks to establish a clear and comprehensive set of rules for the use of tractor yarding in cable areas, removing any ambiguity or confusion that may have existed previously. This would enable RPFs to propose exceptions to the limits of Tractor Operations where necessary licensed operators to carry out their activities in a more streamlined and efficient manner, while also ensuring that the relevant environmental requirements and safety considerations are met.

The **effect** of the proposed action will be to provide simplicity and guidance for the implementation and enforcement of regulations governing cable and Tractor Operations in logging activities. By establishing clear and inclusive guidelines, the regulatory framework will ensure that licensed operators are aware of the permissible practices for conducting Tractor Operations in cable areas.

This increased precision will contribute to more effective, safe, and efficient logging practices, benefiting the forest products industry, forestry professionals, and the environment. The established guidelines will help RPFs make informed decisions regarding the selection of appropriate harvesting methods and ensure that Licensed Timber Operators are following regulatory requirements. This, in turn, will reduce confusion and promote a more consistent approach to harvesting practices.

The **benefit** of the proposed action is to improve regulatory clarity related to the use of tractors in areas designated for Cable Yarding. This increased clarity will result in better worker safety, particularly in areas where traditional cable operations are particularly dangerous due to challenging terrain or other obstacles that make access difficult.

In addition, the increased regulatory clarity resulting from the proposed action will benefit forestry professionals and other stakeholders. It will enable them to better understand the rules and regulations related to tractor and cable operations, and to operate within a consistent and transparent regulatory framework. This will promote better communication, cooperation, and coordination among licensed operators and regulatory authorities, resulting in more effective and efficient forest management practices.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State

regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to the use of cable yarding in timber operations within 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.

Statute to which the proposed action was compared: Chapter 8, Part 2, Division 4, Public Resources Code.

Regulations to which the proposed action was compared: Article 4, Subchapters 1, 4, 5, & 6, Chapter 4, Division 1.5, Title 14, California Code of Regulations.

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 the definition of “ford” as pertains to timber harvesting. 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. The proposed action represents a continuation of existing forest practice regulations related to the conduct of timber operations and will not result in any direct or indirect 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 contemplating forest practice in California that the Board brings to bear on regulatory development.

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:

- Will not create jobs within California (GOV § 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A));
- Will not create new businesses (GOV § 11346.3(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)). The proposed action will result in increased clarity concerning the use of tractor and cable operations. The use of more precise equipment in such areas will help to minimize environmental damage and ensure compliance with relevant regulations. The proposed action will not affect the health and welfare of California residents or worker safety.

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)

The proposed regulation may affect small business, though small businesses, within the meaning of GOV § 11342.610, are not expected to be significantly affected by the proposed action.

Small business, pursuant to 1 CCR § 4(a):

- (1) Is 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) May incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

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: Andrew Lawhorn
Regulations Program
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 619-9795

The designated backup person in the event Mr. Lawhorn is not available is Jane Van Susteren, Regulations Coordinator for the Board of Forestry and Fire Protection. Ms. Van Susteren 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: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>