FINAL STATEMENT OF REASONS (FSOR), pursuant to GOV §11346.9(a)

 “Ford Definition Amendment, 2023”

Title 14 of the California Code of Regulations (14 CCR),

Division 1.5, Chapter 4,

Subchapter 1, Article 1

# UPDATE OF INFORMATION CONTAINED IN ISOR (pursuant to GOV §11346.9(a)(1))

All material relied upon was identified in the ISOR 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))

There are no revisions to the 45-Day rule text as noticed.

# 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.

The proposed action is the most cost-efficient, least burdensome alternative and is equally or more effective than the other options considered. 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 and having less than 100 employees.

# 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.
* No alternative considered would lessen any adverse economic impact on small business.

# FINDINGS (BASED ON INFORMATION, FACTS, EVIDENCE AND EXPERT OPINION) TO SUPPORT THE ALTERNATIVES DETERMINATION

* The Board finds that the current definition of “ford” lacks regulatory clarity as to the specific type of watercourse crossing in plans, given the varying impact of different types of ford on watercourses.
* The Board finds that the updated regulations, which provide sub-definitions for “ford”, promote clarity as to the type of watercourse crossing in plans.

# 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

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

## Alternative #2: Make Existing Regulation Less Prescriptive

## This action would replace the prescriptive standards for ford definitions with performance based regulations. This alternative may reduce clarity and consistency with other portions of the rules which rely upon the existence of the current operational limitations in order to ensure that forest resources are preserved.

# 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.

## WRITTEN COMMENTS RECEIEVED DURING THE 45-DAY NOTIFICATION PERIOD FROM NOVEMBER 4, 2022 THROUGH JANUARY 18, 2023

### Comment W1-1: Matthew Reischman, Deputy Director Resource Management, CALFIRE

Dear Chair Gilless:

The California Department of Forestry and Fire Protection (CAL FIRE) supports the Board’s proposed rulemaking entitled, “Ford Definition Amendment, 2023.” The proposed rulemaking was initiated by the North Coast Regional Water Quality Control Board (North Coast Board) and would amend the existing Forest Practice Rule definition of the watercourse crossing type known as a “Ford.” As proposed, the definition would be modified to include four specific descriptions of the composition of a ford-style crossing. The proposed language also includes an important acknowledgement that the four descriptions are not inclusive of all possible variants of a ford crossing.

CAL FIRE has not been able to corroborate through correspondence with Unit Foresters that the absence of additional crossing descriptors has resulted in confusion during Preharvest Inspections or the plan review process generally. Review of existing and proposed watercourse crossings commonly features prominently in harvest plan review. Whether review of the proposed composition of a ford-style crossing takes any more time than that of a culvert crossing cannot be discerned. Still, clarity in the Forest Practice Rule definitions of terms can be helpful and the four types of ford crossings described can serve as a guidepost for Registered Professional Foresters in their development of harvest plans. For these reasons, CAL FIRE supports the Board’s adoption of this proposed rulemaking.

Thank you for providing the Department an opportunity to comment on this rule package. A representative from CAL FIRE will be at the hearing should any questions arise.

Sincerely,

MATTHEW REISCHMAN

Deputy Director

Resource Management

**Board Response:** The Board appreciates the support of the Department.

**Rule Text Change:** No.

**VERBAL COMMENTS RECEIVED DURING THE PUBLIC HEARING CONDUCTED July 26, 2023.**

### Comment S1-1: Dave Fowler, North Coast Regional Water Quality Control Board

This was an issue brought up by the water boards for clarity. The existing language is vague and has lead to some lengthy discussions in the field. He would like to thank the board for taking action on this. The new definition will take care of issue that they brought up and will lead to regulatory clarity. The North Coast Water Quality Control Board supports the new wording.

**Board Response:** The Board appreciates the comment in support of the proposed rulemaking.

**Rule Text Change:** No.

### Comment S2-1: George Gentry, Senior Vice President California Licensed Foresters Association

His organizations supports this rulemaking.

**Board Response:** The Board appreciates the comment in support of the proposed rulemaking.

**Rule Text Change:** No.