

Board of Forestry and Fire Protection

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

“CATEGORICAL EXEMPTION AMENDMENTS, 2019”

DRAFT DOCUMENT

Board of Forestry and Fire Protection

Title 14 of the California Code of Regulations (CCR) Division 1.5, Chapter 5

Subchapter 3, Section 1153

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

No information contained in the Initial Statement of Reasons (ISOR) requires an update. 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))

The rule text was adopted in its 45-Day noticed form.

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 2, 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 #2 as proposed and modified through the formal public review and comment process. The Board adopted the rule text published with the 45-Day Notice (on August 23, 2019).

The proposed action is the most cost-efficient, equally or more effective, and least burdensome alternative. Alternative 1 would not be more effective or equally effective while being less burdensome or impact fewer small businesses than the proposed action. Specifically, alternative 1 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, alternative 1 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 California Environmental Quality Act (CEQA) requires governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality.
- The Board finds that, within the regulatory guidance adopted by the California Natural Resources Agency (CNRA) for the implementation of CEQA, 14 CCR § 15300.4 requires that each public agency, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes of Categorically Exempt projects as described by CEQA regulation.
- The Board finds that the existing regulatory list of Categorically Exempt projects of the Board do not reflect the full scope of Board activities that fall within the existing classes of exempt activities as identified by existing California Environmental Quality Act (CEQA) regulation.
- The Board finds that the Board's actions related to defensible space requirements under the authority of PRC § 4291, including the adoption of Board regulations, are consistent with the letter and intent of 14 CCR § 15304.
- The Board finds that the Board approval of state forest management plans in

accordance with PRC § 4645 is consistent with the letter and intent of 14 CCR § 15306.

- The Board finds that that Board actions related to the management of hazardous fire areas in accordance with PRC §§ 4251-4290.5, as well as Board actions presently exempt under 14 CCR § 15307, may be consistent with either, or both, of 14 CCR §§ 15307 and 15308, depending on the project specifics
- The Board also finds the adopted alternative promotes an increase in openness and transparency in government through the Board's disclosure of the impacts, or lack thereof, of potential future Board activities
- The Board finds the adopted alternative fulfills the obligations of the Board, specified in statute and regulation.

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 Alternative

The Board considered taking no action, but this alternative was rejected because it would not address the problem.

Alternative #2: Proposed Action

Alternative 1 would not be more effective or equally effective while being less burdensome or impact fewer small businesses than the proposed action. Specifically, alternative 1 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.

Additionally, alternative 1 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 businesses.

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 AND RESPONSES RESULTING FROM 45-DAY NOTICE OF
PROPOSED RULEMAKING PUBLISHED AUGUST 23, 2019**

No comments were received during the public comment period