**Board of Forestry and Fire Protection**

**FINAL STATEMENT OF REASONS**

**“Subdivision Map Findings, 2019”**

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

**Division 1.5, Chapter 7, Subchapter 1, Article 1.**

**Adopt**

**Subchapter 1 Subdivision Safety**

**Article 1 Subdivision Map Findings**

**§ 1266.00 Definitions**

**§ 1266.01 Subdivision Map Findings**

**§ 1266.02 Reporting the Findings**

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

No information contained in the ISOR or supplemental statement of reasons requires update. All material relied upon was identified in the ISOR or supplemental statement of reasons 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 15-Day noticed form.

**MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS (pursuant to GOV §11346.9(a)(2)):**

The adopted regulation imposes a mandate on local agencies which is not reimbursable pursuant to section 17500 of the Government Code.

**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. The mandate imposed to local agencies by the adopted regulation is to submit information via electronic mail, which will take a minimal amount of staff time and does not require funds spent on mailing materials, postage, and other resources.

**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 Noticed**

The Board selected Alternative #3 as proposed and noticed. The Board adopted the rule text published with the 15-Day Notice on November 18, 2019. Additionally, the proposed action is the most cost-efficient, equally or more effective, and less burdensome alternative.

Alternatives 1 and 2 would not be more effective or equally effective while being less

burdensome and impacting fewer small businesses than the proposed action.

**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. (reference ECONOMIC IMPACT ANALYSIS in ISOR)
* No alternative considered would lessen any adverse economic impact on small business. (reference ECONOMIC IMPACT ANALYSIS in ISOR)

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

* The Board finds that SB 1260 (Jackson, 2018) added new requirements to Government Code for local agencies to send certain subdivision map findings to the Board.
* The Board finds that regulations are necessary to interpret, implement, and make specific the requirement in Government Code for local agencies, in order to provide local agencies with clear, consistent information.
* The Board finds the adopted alternative fulfills the obligations of the Board specified in statute, and represents a product based upon compromise and the greatest degree of consensus achievable at the time the Board authorized noticing of these adoptions.

## **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, since the statutory language added to GC 66474.02 is somewhat prescriptive in nature and requires little to no interpretation or clarification. However, as the Board can expect to receive hundreds to thousands of these findings over the lifetime of this statute, the Board wanted to create a consistent process by which the documents were received and consistency in the information a local agency must provide the Board to demonstrate “substantial evidence in the record.” The Board was concerned that placing these requirements in another document would result in an underground regulation.

**Alternative 2: Copying Statute Verbatim**

The Board considered copying statute verbatim into regulation. However, the Board noted a few places that could use further clarification.

**SUMMARY AND RESPONSE TO COMMENTS (pursuant to GOV 11346.9(a)(3))**

The Board received one comment on the proposed rulemaking from a state agency.

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.

2nd number (following the hyphen): Represents the specific comment within a written comment or speaker comment. The specific comments are numbered in the order in which they were presented.

**WRITTEN COMMENTS AND RESPONSES RESULTING FROM 45-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED** **JANUARY 11, 2019**

**Comment W1-1: Daniel Nathan, Coastal Program Analyst, California Coastal Commission**

“With regard to the proposed regulations on Subdivision Map Findings, including requiring a local government to make the finding that a property to be subdivided will have adequate structural fire protection and suppression services and will be consistent with regulations adopted by the BoF (pursuant to sections 4290 and 4291 of the Public Resources Code or with local ordinances certified by the BoF), we note that the subdivision of property constitutes a change in the density or intensity of the use of land. Such an activity constitutes development under the Coastal Act and would require a CDP from either the local government or the Commission (where there is no certified LCP) and must be found consistent with the certified LCP, or in the case where no certified LCP exists, the Coastal Act. In certain cases, a subdivision could be found to be noncompliant with the Coastal Act or LCP policies, notwithstanding compliance with the findings required by the BoF under this proposed regulation.

**Board Response:** The Board appreciates information from the California Coastal Commission regarding their Local Coastal Plan and Coastal Development Permit processes. These regulations implement, interpret, and make specific a requirement that local government send fire protection related findings on their subdivision maps to the Board upon approval as a notification process only. Therefore, no revisions to the regulations are necessary. The Board looks forward to collaborating with the Coastal Commission on future projects to reduce wildfire risk in the Coastal Zone.

**Rule Text Change:** **No**

**WRITTEN COMMENTS AND RESPONSES RESULTING FROM 15-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED** **NOVEMBER 18, 2019**

None received.