**Board of Forestry and Fire Protection**

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

**“Maximum Sustained Production Amendments, 2023”**

**Board of Forestry and Fire Protection**

**Title 14 of the California Code of Regulations (CCR) Division 1.5, Chapter 4**

**Subchapter 4,5 & 6

 Article 3

Amend: §§ 913.11, 933.11, 953.11**

**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 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 (on June 2, 2023).

The proposed action 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 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 proposed changes allow timberland owners to account for fire risk and increase fire protection in concert with the goal of maximum sustained production of high-quality timber products.

• The Board finds that the chosen alternative meets its statutory obligations and embodies a solution forged through compromise, reflecting the highest attainable consensus when the amendments were introduced for notice.

• The Board finds that the adopted alternative is necessary to achieve the ecological goals established by the Board and set forth within the Initial Statement of Reasons.

• The Board finds these amendments improve the clarity of existing regulations surrounding timber harvesting plans, and clearly implement existing statutory requirements within the related regulations.

• The Board finds that public and agency representatives reviewed and provided input into these amendments.

**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 the no action alternative was rejected because it would not address the problem.

**Alternative #2: Make Existing Regulation Less Prescriptive**

## The Board considered making the existing regulation less prescriptive. This action would have replaced the prescriptive standards that define limiting factors to forest production and consideration of forest values with performance-based regulations. This alternative would have reduced 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 conserved.

**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 July 26, 2023.**

 **Re: “Maximum Sustained Production Amendments, 2023.”**

Dear Chair Gilless:

The California Department of Forestry and Fire Protection (CAL FIRE) supports the Board’s proposed rulemaking entitled, “Maximum Sustained Production Amendments, 2023.” The proposed rulemaking would make modest amendments to the Forest Practice Rules for “Maximum Sustained Production of High Quality Timber Products” (MSP). As proposed, the amended language would add consideration of fire risk and fire protection to the list of possible constraints on timber production. The new language would allow for the inclusion of fire risk and fire protection mitigations as factors that impact the production of high-quality timber products under a Timber Harvesting Plan, Sustained Yield Plan, Nonindustrial Timber Management Plan, or a Working Forest Management Plan.

CAL FIRE believes the proposed rulemaking will add clarity to the Forest Practice Rules for MSP and assist Registered Professional Foresters in their consideration of wildfire resilience as a key element to the management of timberlands. CAL FIRE agrees that fire protection is a forest value that can limit productivity due to management constraints but is needed for long-term protection of overall forest integrity and resilience to wildfire.

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 for this rulemaking.

**Rule Text Change:** No.

**SPOKEN COMMENTS AND RESPONSES RESULTING FROM 45-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED July 26, 2023.**

**Comment S1-1: George “Y.G.” Gentry, Senior Vice President, California Forestry Association, July 26, 2023:** “Thanks to the Committee for all of the hard work. CLFA supports this rule.”

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

**Rule Text Change:** No.