

Board of Forestry and Fire Protection

INITIAL STATEMENT OF REASONS

“Safety Element Review, 2017”

Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Chapter 7
Adopt Article 6 1210.00-1210.03

INTRODUCTION INCLUDING PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS (pursuant to GC § 11346.2(b)(1))...NECESSITY (pursuant to GC § 11346.2(b)(1) and 11349(a))....BENEFITS (pursuant to GC § 11346.2(b)(1))

California Government Code (GOV) Section 65302.5(b)(1) requires a draft element of or draft amendment to the safety element of a county or a city’s general plan to be submitted to the Board of Forestry and Fire Protection (Board) if that county or city contains State Responsibility Area (SRA) or Very High Fire Hazard Severity Zone (VHFHSZ), and Section 65302.5(b)(3) requires the Board to review the submitted safety elements for how well it addresses wildland fire risk reduction and mitigation in the planning area.

The problem is that no review program exists in regulation under the Board of Forestry and Fire Protection to complete the review required under GOV § 65302.5(b)(3).

The purpose of the proposed action is to create a procedure to standardize the review of safety elements submitted to the Board.

On September 29, 2016, the Board took action to authorize a 45-Day Notice, as part of regular rulemaking, for the regulation entitled “Safety Element Review, 2017.”

The effect of the proposed action is the establishment of a review process to analyze and assess general plan safety elements for their wildland fire risk reduction and mitigation efforts that is clearly communicated and readily available to Board members, the public, and members of the review team.

The primary benefit of the proposed action is a clear, direct, and standardized review process that maximizes efficiency, provides transparency to the regulated public, and is utilized effectively to prevent property and life losses in the wildland-urban interface.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL (pursuant to GOV § 11346.2(b)(1)) AND THE RATIONALE FOR THE AGENCY'S DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSE(S) OF THE STATUTE(S) OR OTHER PROVISIONS OF LAW THAT THE ACTION IS IMPLEMENTING, INTERPRETING OR MAKING SPECIFIC AND TO ADDRESS THE PROBLEM FOR WHICH IT IS PROPOSED (pursuant to GOV §§ 11346.2(b)(1) and 11349(a) and 1 CCR § 10(b)). *Note: For each adoption, amendment, or repeal provide the problem, purpose and necessity.*

The Board is proposing action to adopt 1210.00 through 1210.03, inclusive.

The problem is there are no regulatory codes implementing, interpreting, or making specific GOV § 65302.5.

The purpose of the proposed action is to provide unambiguous and transparent information about the safety element review standards and review process.

Explanation for why the Proposed Action Duplicates and/or Rephrases Statute and Existing Rules

The proposed action duplicates or rephrases statute because that was the most efficient and clear way to implement the statutory authority given to the Board. The Board found that in some places, only minor changes to provide flexibility or further interpret or make specific the statutes were necessary to create these regulations.

The proposed action does not duplicate or rephrase existing rules.

Adopt 1210.00 Definitions

This section provides clarity to the general public about how the specified terms are to be interpreted when used within this regulatory section. The included terms were chosen to give specific meanings to words or phrases that were determined to have multiple reasonable interpretations when used in everyday speech. Inclusion of defined terms in this regulatory section allows the reader to understand exactly what is meant in the regulatory language without the inclusion of additional, duplicative clarifying language each time the term is used.

Proposed adoption of the definition of the terms "Board," CAL FIRE," "Department," and "Director"

These shorthand terms could refer to a variety of governmental agencies and it is necessary to specify which government bodies the regulations are referring to so that the public can communicate with the proper personnel.

Proposed adoption of the definition of the terms "General Plan Safety Element" and "safety element"

These terms are defined here because these proposed regulations apply to a specific set of plans that must meet requirements outlined in Government Code. It is necessary to specify which plan these proposed regulations apply to, as there are a variety of

plans a jurisdiction may formulate to guide the development of their communities, and it is important to make sure these proposed regulations are applied to the correct plan.

Proposed adoption of the definition of the terms “State Responsibility Area,” “SRA,” “Very High Fire Hazard Severity Zone,” and “VHFHSZ”

Defining these terms is necessary because these regulations only apply to counties with State Responsibility Area (SRA) and cities with Very High Fire Hazard Severity Zone (VHFHSZ) and so providing these definitions gives the public a clear reference to where to find the applicable counties and cities.

Adopt 1210.01(a)(1) and (2) Safety Element Submission

These subsections repeat existing statute in GOV § 65302.5(b)(1)(A) and (B) because the Board decided there was no need to interpret, implement, or make specific these statements. It is necessary to restate statute in order to provide the public with the full safety element review process in one location, to avoid the confusion that would result if the public were forced to move between statute and regulation to try to find all the relevant information they needed.

Adopt 1210.01(a)(3) Safety Element Submission

The Board determined that major fire safety planning efforts that are then amended or annexed to the general plan safety element qualifies for submitting the safety element to the Board for review. Pursuant to GOV § 65302(g)(3)(D), plans that contain the information required in GOV § 65302(g)(3) shall be attached to or referenced in the safety element. These plans, such as a Local Hazard Mitigation Plan (LHMP) or a Community Wildfire Protection Plan (CWPP), often contain the same information as required by these proposed regulations and enabling statute. For the purposes of efficiency for the regulated public, the Board does not want to force local jurisdictions to repeat this information a second time in the safety element. If that information is incorporated by reference into the safety element via the LHMP or CWPP or other fire safety plan, the Board has an obligation to review it for compliance with these proposed regulations and the enabling statute.

Adopt 1210.01(b) Safety Element Submission

The Board determined that, for the purposes of cost savings and efficiency, a jurisdiction does not need to send their safety element for review if they did not update the information in it relevant to fire hazards. For the purposes of record keeping and to avoid confusion, they are required to notify the Board about these non-wildfire-related changes to the safety element and send the most recent draft of the safety element.

Adopt 1210.01(c) Safety Element Submission

Information about how to submit a jurisdiction’s safety element and where to address it is provided in order to reduce confusion about the submission process and to ensure submissions are received by the Board in a timely manner. Postal and electronic submissions are allowed so that jurisdictions may choose their most efficient and cost effective method.

Adopt 1210.02(a) Safety Element Review Procedures

This section restates GOV § 65302.5(b)(3) because the Board felt the statutory language did not need further interpretation, implementation, or specificity.

Adopt 1210.02(b) Safety Element Review Procedures

The Board has one staff member dedicated to implementing their land use planning policy and programs. With 56 counties and 189 cities with SRA and/or VHFHSZ, the Board receives so many safety elements a year that to perform an in-depth review of each one would limit that staffer's capacity for other projects considerably. In addition, the CAL FIRE land use planning staff work with local jurisdictions throughout their safety element update process, and in their review can provide local context, history, and jurisdiction-specific recommendations that Board staff in Sacramento cannot. Through their current experience utilizing CAL FIRE land use planning staff to perform these reviews, the Board has found that the reviews are much more relevant to jurisdictions and the Board's comments are more likely to be implemented by jurisdictions when the Board uses this method.

Adopt 1210.02(c) Safety Element Review Procedures

This section explains the evaluation process that will be used to review safety elements. This provides transparency to the public. It is necessary for the Board to establish this evaluation process because statute expresses broad fire protection goals in GOV §§ 65302(g)(3) and 65302.5(b)(3)(A) and (B), and the Board needs a consistent, specific process that also offers flexibility to a jurisdiction in order to fully implement the statute. The Assessment ensures that jurisdictions have the required information in Government Code in their safety elements, but also includes a variety of examples of goals, policies, and implementation measures that a jurisdiction may use to reduce their fire risk. Necessity statements for the referenced Safety Element Assessment are found starting on page 5 in this document.

Adopt 1210.03 Safety Element Review Response

This section restates GOV § 65302.5(b)(4), except to add the term "fire" in front of "agency" when necessary for clarity and to provide contact information for clarity and transparency. The Board felt the statute was sufficiently clear and specific enough to restate in regulation without any additional regulatory standards. It is necessary to restate statute in order to provide the public with the full safety element review process in one location, to avoid the confusion that would result if the public were forced to move between statute and regulation to try to find all the relevant information they needed.

Safety Element Assessment

This document is adopted in proposed section 1210.02(c) in order to facilitate the review of safety elements submitted to the Board. With 56 counties and 189 cities with SRA and/or VHFHSZ, the Board believes the most efficient way to review safety elements is with a standardized review document. The Assessment provides, in one clear, easy to use document, the methodology for review, statutory requirements for the Safety Element, examples goals, policies, and implementations measures a jurisdiction could use to meet those requirements, and ways a jurisdiction might consider

incorporating fire hazard planning into other elements of the general plan. A single document for safety element review creates clear standards for jurisdictions and communicates the Board's fire hazard planning priorities in a uniform manner, ensuring a consistent message across jurisdictions. As will be demonstrated in further sections, however, this document also provides flexibility in reviewing safety elements and applying recommendations in order to ensure all jurisdictions receive relevant and applicable recommendations regardless of their size, fire threat, or planning and implementation capacity.

Safety Element Assessment: Purpose and Background, Page 1, Lines 3-20

These lines repeat statute in GOV § 65302(g)(3) and 65302(g)(3)(A) to provide convenience to the reader. This allows the reader to directly reference the safety element requirements without having to cross-reference statute. These lines in particular explain the requirement to review the safety element upon revision of the housing element (lines 3-5) and the specific data and information required to be included in the safety element (lines 7-20).

Safety Element Assessment: Purpose and Background, Page 1, Lines 22-40

These lines also repeat statute in GOV § 65302(g)(3)(B-D) to provide convenience to the reader. This allows the reader to directly reference the safety element requirements without having to cross-reference statute. These lines describe the requirements for goals, policies, and objectives that protect the community from the unreasonable risk of wildfire (lines 22-23) and implementation measures that can be used to achieve those goals, policies, and objectives (lines 23-35). These lines also rephrase the statutory requirement to include any fire safety plans or other documents adopted by the city or county that fulfill the goals and objectives or contains the information required in above sections (lines 37-40).

Safety Element Assessment: Purpose and Background, Page 1, Lines 42-46

These lines direct the reader to the online location of the Office of Planning and Research's Fire Hazard Planning General Plan Technical Advice Series, which jurisdictions are required by GOV § 65302(g)(3) to consult during the update of their safety element. This provides convenience to the reader, who does not have to search the web for this document.

Safety Element Assessment: Purpose and Background, Page 1, Lines 48-53, Page 2, Line 1

Page 1, Lines 48-53, Page 2, Line 1 discuss the Safety Element Assessment adopted by the Board. It restates or rephrases the statutory requirements in GOV § 65302.5(b) under which a jurisdiction must submit their safety element to the Board for review, and restates or rephrases the statutory direction given to the Board to review the submitted safety elements in GOV § 65302.5(b)(3). This is provided for convenience for the reader, who does not have to track down the statute online or in print.

Safety Element Assessment: Purpose and Background, Page 2, Lines 3-5

These lines provide information to jurisdictions who may not be aware that CAL FIRE provides technical staff that can provide expert planning guidance to jurisdictions updating their safety element. This information is necessary to inform readers who may not be aware of this program within CAL FIRE. It is the Board's experience that jurisdictions who utilize CAL FIRE land use planning staff to provide technical advice when revising their general plan develop safety elements that meet all the requirements in Government Code and are uniquely suited to their specific planning area, resulting in greater long-term implementation success.

Safety Element Assessment: Methodology for Review and Recommendations, Page 2, Lines 9-15

This section of the Assessment provides information to the public about the process the Board will use to review safety elements and provide recommendations. This section makes specific the review required in GOV § 65302.5(b)(3). Through their experience reviewing safety elements for over 25 years, the Board has determined this three-step process is the most efficient way to review safety elements for the all-around required information in GOV § 65302(g)(3)(A), the interpretative requirements in GOV § 65302(g)(3)(B) that may vary by jurisdiction, and to provide recommendations on the topics required by GOV § 65302.5(b)(3)(A) and (B).

Safety Element Assessment: Methodology for Review and Recommendations, Page 2, Lines 17-32

These final introductory paragraphs describe the contents of the Assessment that begins on page 3. This is provided to give the reader context for the Assessment so that it may be utilized most efficiently during the planning process, as a reviewing tool, and to implement any recommendations made by the Board.

Safety Element Assessment: Information Chart, Page 3

This chart is provided to identify which jurisdiction is being reviewed, by whom, and when, as well as providing a space for contact information for local jurisdiction contacts. This is necessary to provide for recordkeeping and to clearly communicate to reviewers, local jurisdictions, and Board members which review is applicable to which jurisdiction.

Safety Element Assessment: Background Information Summary, Page 3

This section restates or rephrases GOV § 65302(g)(3)(A)(i-v). All of this information is required to be included in a revised safety element and the Board decided to restate or rephrase statute in order to most completely conform to the Legislature's intent. The last row, "*Any other relevant information regarding fire hazards in the SRA or VHFHSZ?*" is not explicitly stated in statute, but is necessary to provide the reviewer with an opportunity to include other information that may fall under the "not limited to" caveat in GOV § 65302(g)(3)(A) ("*Information regarding fire hazards, including, but not limited to, all of the following:...*").

The language in italics in the top brown-gray row is directed at the reviewer, providing them with instructions for reviewing the safety element for these requirements, indicating whether those requirements are included in the safety element, and how to

utilize the Comments/Recommendations column to the right of the table. This information is necessary so that reviewers utilize this Assessment in a consistent manner and so that the jurisdictions that receive this Assessment understand how reviewers evaluated their safety element and they can correctly interpret the reviewer's recommendations and implement them effectively.

Safety Element Assessment: Goals, Policies, Objectives, and Feasible Implementation Measures, Header, Page 3

The first two lines in the top brown-gray row in this table rephrases statutory language from GOV § 65302(g)(3)(B) and (C). The Board believes rephrasing statute is the most efficient way to communicate why the information on the following pages is included in the Assessment, and what statutory requirements this information is addressing. As a whole, this table is asking reviewers to evaluate if jurisdictions have included goals, policies, objectives, and implementation measures that comply with Government Code and if they have adequately addressed fire hazard planning in their safety elements. This table is set up with open ended questions to provide reviewers with flexibility when they answer the questions and write comments or recommendations. With 56 counties and 189 cities that will be reviewed with this Assessment, there is a wide range of fire risk, organizational size, and fiscal capacity that will influence a jurisdiction's planning and mitigation measures. This table is set up in such a way to allow a reviewer to ensure a jurisdiction has met the requirements of Government Code but also provide specific recommendations or comments that address the unique fire risk and organizational situations faced by the jurisdiction under review.

The italicized language in the brown-gray row is directed at the reviewer, providing them with instructions for reviewing the safety element for goals, policies, objectives, and implementation measures that address GOV § 65302(g)(3)(C)(i-iv) that are adequate for the jurisdiction in question. It also instructs the reviewer on how to utilize the Comments/Recommendations column to the right of the table. This information is necessary so that reviewers utilize this Assessment in a consistent manner and so that the jurisdictions that receive this Assessment understand how reviewers evaluated their safety element and they can correctly interpret the reviewer's recommendations and implement them effectively.

Safety Element Assessment: Goals, Policies, Objectives, and Feasible Implementation Measures, Avoiding or minimizing the wildfire hazards associated with new uses of land, Land Use, Page 3-4

These questions are intended to help the reviewer assess whether a safety element has adequately protected the community from the unreasonable risk of wildfire. This table is divided into sections based on the subparagraphs in GOV § 65302(g)(3)(C) to organize the evaluation questions into clear policy topics for the reviewer, but may go beyond those subparagraphs where the Board determined it was necessary (see *"including, but not limited to, all of the following:"* GOV § 65302(g)(3)(C)).

The questions in each section are broken down into categories that organize the questions by theme to create a clear and concise review document that is easy to follow

and understand. This section, Land Use, asks the reviewer to evaluate the safety element for goals, policies, objectives, and feasible implementation measures that relate to the planned uses of land in the jurisdiction. These questions are necessary for several reasons:

- To evaluate whether a jurisdiction has goals, policies, objectives, and/or feasible implementation measures to meet the basic statewide requirements for Fire Safe Development (14 CCR § 1270) and Defensible Space (14 CCR § 1299). These statewide minimums are required in the SRA (see 14 CCR § 1270.02, 14 CCR § 1299.01) as well as on tentative and parcel maps in the SRA or VHFHSZ (see GOV § 66474.02) and provide the minimum fire protection development and vegetation management requirements for the state. Adequate infrastructure for new development is also required under GOV § 65302(g)(3)(C)(iii).
- To determine if a jurisdiction has goals, policies, objectives, and/or feasible implementation measures that prioritize locating essential public facilities and new residential development outside of very high fire hazard severity zones. Focusing on development in areas with less fire hazard reduces the amount of people and facilities in harm's way. This is also required under GOV § 65302(g)(3)(C)(i) and (ii).
- To evaluate if a jurisdiction has goals, policies, objectives, and/or feasible implementation measures that consider mitigating existing nonconforming roadways and/or vegetation clearances and if the jurisdiction has any goals, policies, objectives, and/or feasible implementation measures to reconsider their development priorities after a major wildfire. The Board expects that these questions will be relevant to only the most advanced jurisdictions that have already addressed fire safe design for new development and that have resources to spare on these types of mitigations and pre-planning. The Board believes these questions are necessary to prompt jurisdictions to consider how best to protect their pre-existing residential developments from the unreasonable risk of wildfire if they already have compelling fire safety requirements for new development.

Safety Element Assessment: Goals, Policies, Objectives, and Feasible Implementation Measures, Avoiding or minimizing the wildfire hazards associated with new uses of land, Fuel Modification, Page 4

These questions are intended to help the reviewer assess whether a safety element has adequately protected the community from the unreasonable risk of wildfire. This table is divided into sections based on the subparagraphs in GOV § 65302(g)(3)(C) to organize the evaluation questions into clear policy topics for the reviewer, but may go beyond those subparagraphs where the Board determined it was necessary (see *"including, but not limited to, all of the following:"* GOV § 65302(g)(3)(C)).

The questions in each section are broken down into categories that organize the questions by theme to create a clear and concise review document that is easy to follow and understand. This section, Fuel Modification, asks the reviewer to evaluate the safety element for goals, policies, objectives, and feasible implementation measures that relate to plans for fuel modification and defensible space in the jurisdiction. These questions are necessary to determine if a jurisdiction requires fuel modification around

new development, as required by statute (PRC § 4291) and regulation (14 CCR § 1299), and if a jurisdiction has a policy to require new development to implement a fire protection plan, including long-term fuel modification maintenance, for new development. The Board believes these questions are necessary 1) to ensure the jurisdiction is complying with the basic statewide defensible space requirements and 2) because fire protection plans that address future fuel modifications, such as fuel breaks, and long-term fuel modification maintenance are often required in order to receive grant funding (including the SRA Fire Prevention Fund Grant Program in 14 CCR § 1666.0). Many subdevelopments require fuel modification at the onset of the project but do not make provisions to maintain that modification, leading to a buildup of flammable vegetation and negating any fire protection benefit that the fuel modification created. These questions are necessary to prompt a jurisdiction to consider whether fire protection plans and long-term fuel modification would improve their community's fire safety.

Safety Element Assessment: Goals, Policies, Objectives, and Feasible Implementation Measures, Avoiding or minimizing the wildfire hazards associated with new uses of land, Access, Page 4

These questions are intended to help the reviewer assess whether a safety element has adequately protected the community from the unreasonable risk of wildfire. This table is divided into sections based on the subparagraphs in GOV § 65302(g)(3)(C) to organize the evaluation questions into clear policy topics for the reviewer, but may go beyond those subparagraphs where the Board determined it was necessary (see *"including, but not limited to, all of the following:"* GOV § 65302(g)(3)(C)).

The questions in each section are broken down into categories that organize the questions by theme to create a clear and concise review document that is easy to follow and understand. This section, Access, asks the reviewer to evaluate the safety element for goals, policies, objectives, and feasible implementation measures that relate to the design of infrastructure and its adequacy for fire protection. These questions are necessary for several reasons:

- To evaluate whether a jurisdiction requires adequate access to new development as required in GOV § 65302(g)(3)(C)(iii) and GOV § 66474.02.
- To determine if a jurisdiction has reviewed their existing road and street network for access issues, and developed any policies or implementation measures to mitigate those issues.
- To determine if the jurisdiction has plans or existing programs in place to educate their population about defensible space requirements and available access routes.

Taken together, these questions allow the reviewer to determine if the jurisdiction has planned an adequate road network for fire safety, or has a plan to mitigate an inadequate roadway network, and that the jurisdiction has communicated with its population about utilizing that road network efficiency during a fire emergency. The Board has determined these questions are necessary to effectively evaluate access

based on firefighter field experience on roadway networks across the state, as well as the technical planning expertise of CAL FIRE land use planning staff.

Safety Element Assessment: Goals, Policies, Objectives, and Feasible Implementation Measures, Avoiding or minimizing the wildfire hazards associated with new uses of land, Fire Protection, Page 4

These questions are intended to help the reviewer assess whether a safety element has adequately protected the community from the unreasonable risk of wildfire. This table is divided into sections based on the subparagraphs in GOV § 65302(g)(3)(C) to organize the evaluation questions into clear policy topics for the reviewer, but may go beyond those subparagraphs where the Board determined it was necessary (see *“including, but not limited to, all of the following:”* GOV § 65302(g)(3)(C)).

The questions in each section are broken down into categories that organize the questions by theme to create a clear and concise review document that is easy to follow and understand. This section, Fire Protection, asks the reviewer to evaluate the safety element for goals, policies, objectives, and feasible implementation measures that relate to fire protection, which may include 911 response times, training standards, water supply, and fire station locations. These questions are necessary to ensure that a jurisdiction has considered basic fire protection needs for any new development in addition to access, fuel modification, and land use decisions.

Safety Element Assessment: Goals, Policies, Objectives, and Feasible Implementation Measures, Develop adequate infrastructure if a new development is located in SRA or VHFHSZ, Page 4-5

These questions are intended to help the reviewer assess whether a safety element has adequately protected the community from the unreasonable risk of wildfire. This table is divided into sections based on the subparagraphs in GOV § 65302(g)(3)(C) to organize the evaluation questions into clear policy topics for the reviewer, but may go beyond those subparagraphs where the Board determined it was necessary (see *“including, but not limited to, all of the following:”* GOV § 65302(g)(3)(C)).

The questions in each section are broken down into categories that organize the questions by theme to create a clear and concise review document that is easy to follow and understand. This section asks the reviewer to evaluate the safety element for adequate infrastructure for new development in SRA or VHFHSZ. The Board decided the most transparent and efficient way to label this section of the table was to restate part of GOV § 65302(g)(3)(C)(iii) in the light pink row. The following rows ask questions aimed at making specific that section of statute. That section of statute reads in full *“(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.”* and the Board believes the questions in this section are necessary for the reviewer to determine if the safety element has provided for such design.

While the questions under *Avoiding or minimizing the wildfire hazards associated with new uses of land*, *Fire Protection* discuss land use planning in the entire planning area, these questions are specific to development in the SRA and/or VHFHSZ. The Board determined that rephrasing GOV § 65302(g)(3)(C)(iii) into the individual rows in this section was the most efficient and effective way to evaluate the safety element for these components. Based on the experience of CAL FIRE firefighters and land use planning staff, the Board determined it was necessary to include community fuel breaks as an infrastructure component that can be used to protect the community from the unreasonable risk of wildfire. Clearly addressing the need to plan for the maintenance of fuel breaks is necessary because without maintenance, fuel breaks will become overgrown over time and lose their effectiveness as a wildfire mitigation tool. Maintenance needs to be a priority consideration when planning for the long-term fire safety of a development.

Safety Element Assessment: Goals, Policies, Objectives, and Feasible Implementation Measures, Working cooperatively with public agencies responsible for fire protection, Page 5

These questions are intended to help the reviewer assess whether a safety element has adequately protected the community from the unreasonable risk of wildfire. This table is divided into sections based on the subparagraphs in GOV § 65302(g)(3)(C) to organize the evaluation questions into clear policy topics for the reviewer, but may go beyond those subparagraphs where the Board determined it was necessary (see *“including, but not limited to, all of the following:”* GOV § 65302(g)(3)(C)).

The questions in each section are broken down into categories that organize the questions by theme to create a clear and concise review document that is easy to follow and understand. This section asks the reviewer to determine if the safety element addresses the local public agencies that provide fire protection to the jurisdiction, as required in GOV § 65302(g)(3)(C)(iv). The Board determined the questions in this section of the Assessment are necessary to ensure the safety element adequately addresses fire protection services to new and existing development and overall provides a high standard of fire protection services with a well-trained firefighting force to the jurisdiction.

Safety Element Assessment: Sample Safety Element Recommendations, Page 6

This section of the Safety Element Assessment provides sample recommendations that a reviewer may use to communicate with a jurisdiction regarding ways to meet the requirements of these regulations and enabling statute. These numbered items can be used on pages 3-5 in the “Comments/Recommendations” column. It is necessary to provide these sample recommendations for several reasons, including:

- Clearly and consistently communicating the Board’s priorities regarding fire safe land use planning;
- Providing a flexible set of statewide recommendations that is transparent to the regulated public;

- Assisting jurisdictions in recognizing unique opportunities to improve fire safety, which may result in grant funding to implement projects to serve both new and existing development.

It is intended by the Board that these recommendations would be selected by the reviewer to be specific to the jurisdiction being reviewed and their relative safety element quality, jurisdictional risk level, and the financial, personnel, and planning resources they might have available to reasonably accomplish any given recommendation. It is also the intention of the Board that the reviewer may make recommendations that are not on this Assessment that meet the unique needs of the jurisdiction.

Safety Element Assessment: Sample Safety Element Recommendations, A. Maps, Plans and Historical Information, Page 6

These recommendations address the requirements in GOV § 65302(g)(3)(A)(i-v) for a jurisdiction to include fire hazard severity zone maps, historical wildfire data, wildfire hazards from the US Geological Survey, and the planned or existing uses of land in VHFHSZ and/or SRA. It is necessary to provide separate recommendations for each of these points because a jurisdiction's safety element may meet only some of these requirements but not all, and providing separate example recommendations in this area allows the reviewer to communicate clear information to the jurisdictions about which specific parts of the safety element requirements are missing.

The purpose of the VHFHSZ maps is to provide a visual representation of areas within SRA or LRA that represent a significant fire hazard due to vegetative fuels, topography, previous fire history and extreme weather or wind characteristics based on previous history or models. Choosing to develop in VHFHSZ often triggers additional requirements for defensible space, access, fire resistive construction requirements, increased fire flow requirements and/or water storage, which are addressed earlier in the Assessment.

Inclusion of historical information regarding natural and manmade disasters shows evidence of disaster potential (this historical information may include weather data or phenomenon) as well as past response and recovery efforts. This historical information may also validate the VHFHSZ area designations within or adjacent to a community.

Reference to or inclusion of other fire safety plans such as an LHMP, CWPP, or Unit or County Fire Plan demonstrates previous preplanning for fire prevention measures within the community and may also contain response and post fire recovery plans. Other plans such as Multi Hazard Functional Plans, Community Evacuation Plans, mutual aid plans, and automatic or mutual aid agreements can also be referenced within the safety element. These plans often contain the same information that is required in the safety element by GOV § 65302(g)(3) and cross referencing those plans ensures a) the information required in the safety element under Government Code is present and b) any other local fire safety plans do not conflict with the safety element.

Safety Element Assessment: Sample Safety Element Recommendations, B. Land Use, Page 6

These recommendations are provided in order to assist jurisdictions in complying with GOV § 65302(g)(3)(c)(i) and avoiding or minimizing wildfire hazards associated with new uses of land. These numbered items recommend that jurisdictions meet or exceed the basic statewide minimums for fire safe development promulgated by the Board in 14 CCR § 1270. The fire safe regulations provide basic standards for fire safe development in the SRA and VHFHSZ and have been field tested to ensure they reduce wildfire hazards to new development constructed under those requirements. In addition, GOV § 66474.02 requires tentative and parcel maps for areas in SRA or VHFHSZ to be consistent with any applicable regulations adopted by the Board pursuant to PRC § 4290, which are found in 14 CCR § 1270. This recommendation encourages jurisdictions to meet or exceed those regulations and to have those local ordinances certified for use in lieu of the Board regulations, which creates efficiencies for local planning agencies who need to confirm subdivision maps meet those requirements.

If a jurisdiction has local ordinances that meet or exceed 14 CCR § 1270, recommendations 2 and 3 are provided to encourage the jurisdiction to consider opportunities to mitigate “existing non-conforming” development. Although existing development cannot be moved or have significant changes made to the road network, mitigation measures such as limiting street parking or upgrading street and road signs can provide additional safety for those in an existing development in the SRA or VHFHSZ. These recommendations are necessary to improve fire safety in high risk areas across a jurisdiction, just not for new development.

Safety Element Assessment: Sample Safety Element Recommendations, C. Fuel Modification, Page 6

Vegetative fuels include living and dead vegetation materials. The amount of heat energy released during a wildland fire is defined by the amount, arrangement and rate of combustion of the vegetative fuels. Vegetative fuel flame lengths can exceed 100 feet and the radiated heat can ignite combustible materials from distances of 100 feet or more. Winds can carry live firebrands over a mile from the wildfire. Vegetative fuels within the immediate vicinity (within approximately 30 feet of the home, often called the “home ignition zone”) can have a significant impact on the potential of a home to ignite.

These recommendations are necessary to help jurisdictions meet the requirements in GOV § 65302(g)(3)(C)(iii) to design adequate infrastructure for development in SRA or VHFHSZ. Fuel modification around homes and roadways reduces home ignition, as explained above, and also provides safe areas for firefighters to defend homes and residents to escape and/or for last resort shelter in place.

Many of these recommendations are focused on communicating the requirements for fuel modification or providing for ongoing maintenance of community fuel reduction projects. Firefighter field experience has found that fuel modification becomes less effective over the long term if seasonal or absentee homeowners are unaware of the local requirements or if community fuel breaks are not maintained. These

recommendations are necessary to prompt jurisdictions into considering whether those issues are present in their planning area, and if they have the resources, to consider addressing either or both.

Safety Element Assessment: Sample Safety Element Recommendations, D. Access, Pages 6-7

These recommendations are necessary to assist jurisdictions in meeting the requirements in GOV § 65302(g)(3) relating to road networks and access. Item 1 ensures jurisdictions are prepared to comply with GOV § 66474.02 regarding subdivision map approval (see Safety Element Recommendations, B. Land Use above). Existing road networks established prior to the SRA Fire Safe Regulations in 14 CCR § 1270 et seq often present a danger to evacuating residents as well as responders due to limited travel width of roadways, variable roadway surfaces, and inadequate clearance to allow current fire equipment through. Items 2-5 are necessary to provide jurisdictions with suggested goals, policies, or objectives that would improve fire protection for existing development; although road networks have limited possibilities for change, developing evacuation pre-plans and communicating with residents improves their ability to evacuate in a timely fashion and with limited delay. Mitigations suggested as part of Item 5, such as reducing street parking or creating fuel breaks that can also serve as fire apparatus roads, can help improve the fire safety of infrastructure in existing non-conforming development without large scale, expensive changes to the existing road network.

Safety Element Assessment: Sample Safety Element Recommendations, E. Fire Protection, Page 7

These recommendations assist jurisdictions in meeting the requirements of GOV § 65302(g)(3)(C)(iii) and (iv) for adequate water supply and firefighting capabilities. Effective emergency service response depends upon coordination and pre-planning for a wide variety of emergencies, so it is vital for jurisdictions to project future emergency service needs for their planned land uses. It is critical that pre-planning be done to coordinate a variety of departments, agencies, as well as private operations to be able to respond effectively to an emergency. These recommendations ensure cities and counties are planning for a variety of emergencies and considering their ability to handle these emergencies.

Much like fuel modification, water supply infrastructure can often become “stale” if not maintained over time; recommendations that highlight the importance of adequate and maintained water supply infrastructure are necessary to ensure jurisdictions are planning for development that firefighters can reasonably defend. Immediate wildfire property losses cannot be reduced by increasing the size of the mobilization efforts due to reflex or response times of resources. The best protection for existing structures is to assure there is an adequate defensible space, structural integrity (accomplished through building codes regulated through the Office of the State Fire Marshal), and water supply.

Safety Element Assessment: Fire Hazard Planning in Other Elements of the General Plan, Page 7

This section of the Safety Element Assessment is intended to link fire hazard planning goals throughout the general plan. The Legislature requires the general plan be “internally consistent” (GOV § 65300.5) and it is to this end that the Board includes the below recommendations for reviewers and jurisdictions to consider.

Safety Element Assessment: Fire Hazard Planning in Other Elements of the General Plan, Land Use Element, Page 7

These recommendations are provided to link the recommendations and review questions in the Land Use sections above in the Assessment with the decisions made in the land use element regarding zoning and site planning. By considering these items while formulating the land use element, jurisdictions ensure their land use and safety elements are internally consistent, and that land use decisions are made within the context of reducing fire hazard risk.

Safety Element Assessment: Fire Hazard Planning in Other Elements of the General Plan, Housing Element, Page 7

These recommendations are included so that a jurisdiction may consider, when planning for housing needs in the planning area, how best to address housing needs while reducing or minimizing wildfire risk to the population as much as possible. Projected housing needs should not overburden current response capabilities without addition of resources and public safety infrastructure including adequate roads and water supply. These recommendations prompt the reviewer and jurisdiction to ensure that the housing supply is built to the latest fire code standards, and if resources allow, to consider how existing housing built prior to those codes in VHFHSZ might be mitigated. The recommendations are also necessary because they ask the reviewer and jurisdictions to consider how diverse occupancies besides single family homes might uniquely impact fire safety in the planning area, which is intended to prompt jurisdictions to consider how they might serve those housing needs without increasing the population’s wildfire risk.

Safety Element Assessment: Fire Hazard Planning in Other Elements of the General Plan, Open Space and Conservation Elements, Page 7

Just as growing communities need to upgrade and expand their current infrastructure of roads, sewers, and utilities, they also need to upgrade and expand their green infrastructure, the interconnected system of green spaces that conserves natural ecosystem values and functions, sustains clear air and water, and provides a wide array of benefits to people and the natural environment defined as urban open space in land use planning but can be used in conjunction with defined open space for fire hazard planning and community protection.

These recommendations are necessary to prompt jurisdictions to determine if their open space and conservation elements can identify zones where additional thinning beyond the home ignition zone might occur, which may enhance the ability of firefighters to safely defend community space. Creating an area of reduced fuels immediately

adjacent to the community can provide options for firefighters to control fire in this space, and can provide a safety zone where risks to firefighters are reduced. This requires breaking up fuel continuity beyond the home ignition zone and enhances the defense and survivability of structures.

The open space element can be a place to encourage the reduction of fuel loads within the development through the use of native fire resistive plant species and vegetation management programs in planned open space areas. Fuel reduction is also a required component of Community Wildfire Protection Plans, placing even more emphasis on the importance of integrating fire protection planning throughout the general plan.

Safety Element Assessment: Fire Hazard Planning in Other Elements of the General Plan, Circulation Element, Page 7

GOV §§ 65302(g)(3) and 65302.5 and PRC § 4290 place a heavy emphasis on designing adequate infrastructure for development located in the SRA or VHFHSZ. In order to ensure the general plan is internally consistent, the Board has included recommendations for jurisdictions to consider incorporating into their circulation element. These recommendations reduce the secondary risks faced by firefighters, such as narrow roads or excessive dead end road lengths. The three recommendations in this section ensure that adequate ingress and egress to SRA or VHFHSZ areas is considered when developing a roadway network for the planning area and that the circulation element is consistent with the safety element in that regard.

ECONOMIC IMPACT ANALYSIS (pursuant to GOV § 11346.3(b)(1)(A)-(D) and provided pursuant to 11346.3(a)(3))

The purpose of the proposed action is to provide unambiguous and transparent information about the safety element review standards and process required in GOV § 65302.5.

Creation or Elimination of Jobs within the State of California

The proposed action makes specific the Board's review of general plan safety elements required by GOV § 65302.5(b)(3). Because the regulation relies heavily on rephrasing or restating existing statute, it does not create or eliminate jobs within the state. The proposed action does not require any additional obligations of the regulated public than were previously required by statute, and where the proposed action makes specific statute (such as by directing jurisdictions where to send safety elements, the flexibility given to the Board regarding review deadlines, etc) it is of limited scope and not

anticipated to sustain changes in the job market. The proposed action will not result in the creation or elimination of jobs within the state.

Creation of New or Elimination of Existing Businesses Within the State of California

The proposed action makes specific the Board's review of general plan safety elements required by GOV § 65302.5(b)(3). Because the regulation relies heavily on rephrasing or restating existing statute, it does not create or eliminate jobs within the state. The proposed action does not require any additional obligations of the regulated public than were previously required by statute, and where the proposed action makes specific statute (such as by directing jurisdictions where to send safety elements, the flexibility given to the Board regarding review deadlines, etc) it is of limited scope and not anticipated to sustain business enterprises over the long term or result in the elimination of businesses. The proposed action will not result in the creation or elimination of businesses within the state.

Expansion of Businesses Currently Doing Business Within the State of California

The proposed action restates or rephrases statute in order to provide efficiency and clarity to the regulated public regarding the Board's review of general plan safety elements required by GOV § 65302.5(b)(3). The proposed action does not require any additional obligations of the regulated public than were previously required by statute, and where the proposed action makes specific statute (such as by directing jurisdictions where to send safety elements, the flexibility given to the Board regarding review deadlines, etc) it is of limited scope and not anticipated to result in the expansion of business. The proposed action will not result in the expansion of businesses within the state.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed action will benefit the health and welfare of California residents, worker safety, and the State's environment by reducing the risk of wildfire to residents and businesses in the SRA and VHFHSZ. By addressing and mitigating the wildfire risk to their communities, jurisdictions are reducing the potential for a catastrophic wildfire that would otherwise result in losses of life and property and impact smoke-sensitive populations. The proposed action benefits worker safety because the regulations repeat or rephrase statute that require jurisdictions to identify the local fire protection agencies for the planning area as well as the location of "critical facilities" such as fire and police stations, ensuring that fire stations are not overtasked and can provide adequate service to an area without compromising firefighter safety. In addition, the proposed action may improve the ecological health of the SRA and VHFHSZ landscape, leading to a more natural fire regime and an improved environment.

Business Reporting Requirement (Pursuant to GC § 11346.5(a)(11) and GC § 11346.3(d))

The proposed regulation does not require a business report.

Summary

The proposed action:

- (A) will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses within California;
- (B) will not eliminate existing businesses within California;
- (C) will not affect the expansion or contraction of businesses currently doing business within California.
- (D) will yield nonmonetary benefits through the mitigation of wildfire risk in the planning area and additional government transparency.

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))

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.

Pursuant to **GOV §11346.5(a)(8)**, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support this initial determination:

- Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of experience reviewing general plan safety elements for cities and counties in California that the Board brings to bear on regulatory development.
- Staff participation in the development of Governor's Office of Planning and Research *Fire Hazard Planning General Plan Technical Advice Series*, May 2015.
- Discussions with Department staff on implementation of the enabling statute, GOV § 65302.5.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT RELIED UPON (pursuant to GOV SECTION 11346.2(b)(3))

The Board of Forestry and Fire Protection relied on the following list of technical, theoretical, and/or empirical studies, reports or similar documents to develop the proposed action.

1. Excerpts from Government Code (GOV), 2016: 65302 and 65302.5
2. Excerpts from Public Resources Code (PRC), 2016: 4102, 4111, 4112, 4113, 4114, 4740, 4741, 4290, and 4291
3. Excerpts from California Code of Regulations Title 14: 14 CCR §§ 1270 et seq
4. Excerpts from California Code of Regulations Title 14: 14 CCR §§ 1299.01 et seq
5. Governor's Office of Planning and Research *Fire Hazard Planning General Plan Technical Advice Series*, May 2015
6. Board of Forestry and Fire Protection *A Handbook for Fire Planning in the General Plan*, May 2014

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION CONSIDERED BY THE BOARD, IF ANY, INCLUDING THE FOLLOWING AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES (pursuant to GOV § 11346.2(b)(4)(A) and (B)):

- **ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACTS ON SMALL BUSINESS AND/OR**
- **ALTERNATIVES THAT ARE 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**

Alternative 1: No Action Alternative

The Board considered taking no action, since the Board has been reviewing safety elements under GOV § 65302.5 since its initial promulgation in 1989. However, without more specific regulations implementing GOV § 65302.5, the Board and Board staff are concerned this alternative is an underground regulation and rejected this alternative.

Alternative 2: No Assessment Document

The Board considered a review process that did not utilize a standardized assessment document to review safety elements. However, this would result in confusion among the regulated public, because they would have no knowledge of the criteria the Board would be using to review their safety element, and different Board or CAL FIRE reviewers would potentially apply different criteria where the same criteria would apply. The Board rejected this alternative.

Alternative 3: Proposed Action

The Board has chosen to adopt the proposed action presented in this Initial Statement of Reasons because the Board believes the proposed action is the most cost-efficient, equally or more effective, and less burdensome alternative. The proposed action makes specific GOV §§ 65302 and 65302.5 enough to provide clear guidance to jurisdictions updating their safety element and to the reviewers of the safety elements, but does not establish overly burdensome requirements for submitting and/or reviewing safety elements.

There is no alternative that would be more effective or equally effective while being less burdensome or impact fewer small businesses than the proposed action.

Prescriptive Standards versus Performance Based Standards (pursuant to GOV §§11340.1(a), 11346.2(b)(1) and 11346.2(b)(4)(A)):

Pursuant to **GOV §11340.1(a)**, agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process.

The proposed action does not mandate the use of specific technologies or equipment, but does prescribe specific actions or procedures. The proposed action is only as prescriptive as necessary to ensure general plan safety elements are submitted in a clear and efficient fashion, and to ensure they are reviewed against a consistent and publicly available set of criteria. This creates a submission and review process that is transparent. Performance based standards were not reasonably expected to be as effective and less burdensome in achieving the purpose of the proposed action.

Pursuant to **GOV § 11346.2(b)(1)**, the proposed action does not mandate the use of specific technologies or equipment.

Pursuant to **GOV § 11346.2(b)(4)(A)**, the above-mentioned alternatives were considered and ultimately rejected by the Board in favor of the proposed action. The proposed action does not mandate the use of specific technologies or equipment, but does prescribe specific actions or procedures. Alternatives 1 and 2 considered by the Board require fewer of these actions or procedures but would result in a less effective regulation.

DESCRIPTION OF EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATION (pursuant to GOV § 11346.2(b)(6))

The Code of Federal Regulations has been reviewed and based on this research, the Board found that the proposed action neither conflicts with, nor duplicates Federal regulations. There are no comparable Federal regulations for state-level review of general plan safety elements.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has considered adverse environmental effects from the proposed action and has not identified any adverse environmental effects that will result from the proposed action.

The Board has determined that the proposed action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations § 1153(b)(4).