

Board of Forestry and Fire Protection

NOTICE OF PROPOSED ACTION

“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

[Notice Published December 23, 2016]

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board will hold a public hearing on March 8, 2017 at its regularly scheduled meeting commencing at 8:30am in the Natural Resources Building Auditorium, 1416 9th Street, Sacramento, CA. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M. on February 7, 2017.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Edith Hannigan
Board Analyst
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

publiccomments@BOF.ca.gov

AUTHORITY AND REFERENCE (pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14) 14 CCR §§ 1666.0 to 1666.16 Authority Cited: Section 65302.5, Government Code; Section 4111, Public Resources Code. Reference: Sections 65302, 65302.5, Government Code; Sections 4102, 4112, 4113, 4114, 4740 and 4741, Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW (pursuant to 11346.5(a)(3)(A)-(D))

California Government Code 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. Although this requirement has been in place since 1989, until this proposed action there have been no implementing regulations for this program.

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.

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 specific anticipated 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 due to fire. As a result, this regulatory action will have a positive effect on the protection of public health and safety, worker safety, and the environment.

There is no comparable federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. Board staff assessed existing State regulations related to safety element reviews and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

FORMS INCORPORATED BY REFERENCE

General Plan Safety Element Assessment, adopted by the Board of Forestry and Fire Protection September 29, 2016.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed action is not mandated by federal law or regulations.

The proposed action neither conflicts with, nor duplicates Federal regulations.

There are no comparable Federal regulations for general plan safety element review. No existing Federal regulations that met the same purpose as the proposed action were identified.

OTHER STATUTORY REQUIREMENTS (pursuant to GOV § 11346.5(a)(4))

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

LOCAL MANDATE (pursuant to GOV § 11346.5(a)(5)).

The proposed action does impose a mandate on local agencies or school districts.

FISCAL IMPACT (pursuant to GOV § 11346.5(a)(6))

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings to any state agency.

The proposed action will not result in costs or savings in federal funding to the State.

HOUSING COSTS (pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE (pursuant to GOV §§ 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))

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.

STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)-(D)**. 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. Due to these pre-planning efforts to protect wildland-urban interface areas, the protection of health and welfare of California residents, worker safety, and the state's environment will benefit in perpetuity.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS (pursuant to GOV § 11346.5(a)(9))

There are no cost impacts that a representative private person or representative business would necessarily incur in reasonable compliance with the proposed action, because general plan safety elements are developed by governmental agencies.

BUSINESS REPORT (pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement on business.

SMALL BUSINESS (pursuant to 1 CCR 4(a) and (b))

Small business, within the meaning of GOV § 11342.610, are not expected to be affected by the proposed action.

Small business:

- (1) Is not legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) Does not incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

ALTERNATIVES INFORMATION

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Edith Hannigan
Board Analyst
P.O. Box 944246
Sacramento, CA 94244-2460

Telephone: (916) 653-8007

The designated backup person in the event Ms. Edith Hannigan is not available is Mr. Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Matt Dias may be contacted at the above address or by phone at (916) 653-8007.

AVAILABILITY STATEMENTS (pursuant to GOV § 11346.5(a)(16))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)** and **GOV § 11346.2(a)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board web site at:

http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/