



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: Matt Dias  
Assistant Executive Officer  
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 9<sup>th</sup> Street  
Sacramento, CA

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:

[board.public.comments@fire.ca.gov](mailto:board.public.comments@fire.ca.gov)

#### **AUTHORITY AND REFERENCE**

Authority cited: Public Resources Code Sections 4526 and 4551. Reference: Public Resources Code Sections 4511, 4525.5, 4525.7, 4526.5, 4527, 4528, 4551.5, 4553, and 4581.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, Public Resources Code Section 4511, *et seq.* the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands, including but not limited to timber operations conducted under an Emergency Notice.

Pursuant to this statutory authority, the Board previously adopted regulations contained in 14 CCR § 917 that addressed hazard reduction as it relates to snags and logging slash that are created as a result of commercial timber operations. A component of these requirements provide for a prescriptive

standard in which piles created in a given year must be treated by April 1<sup>st</sup> of the following year.

The treatment of slash piles is a time and weather dependent practice. The unfortunate economics of biomass within the State leave landowners little choice in how to treat slash piles in a cost effective manner. Chipping and/or lopping are not often utilized, therefore burning of piles is generally the practice most often prescribed to treat slash piles. The liability associated with burning of slash material is quite high, particularly in time of drought conditions, while access becomes a significant issue during times of elevated precipitation.

The California Department of Forestry and Fire Protection (*CAL FIRE*), is also experiencing some level of difficulty with the current structure of regulation. It is often the case that *CAL FIRE* staff understands the issues that face landowners in the treatment or disposal of slash piles, but current regulatory standards require timely treatment. If slash pile treatment is conducted within the mandated timeline, it becomes the responsibility of *CAL FIRE* to issue violations to landowners for non-compliance with existing Forest Practice Rules. This becomes a time consuming exercise that could be avoided if the regulatory standards were revised.

This rulemaking proposal would result in providing reasonable timelines for landowners to treat slash piles that are generated from commercial timber operations, while still providing for the reduction of hazard that is associated with slash piles. Flexibility in timelines associated with treatment of slash piles would also alleviate the issues of non-compliance actions of landowners during shifts in weather patterns. This regulatory proposal would ease the difficulty of enforcement that *CAL FIRE* is currently challenged by allow landowners additional time to react to weather cycles in the planning of disposal of slash piles. The additional time provided will certainly increase the likelihood of treatment of slash piles, and therefore decrease the potential for enforcement action.

#### **SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED ADOPTION, AMENDMENT, OR REPEAL OF THE REGULATION**

The rulemaking proposal simply redefines the timelines associated with slash piles that are created during commercial timber operations. For slash piles that are generated as a result of commercial timber operations in a given year prior to September 1<sup>st</sup>, it will become the responsibility of the landowner, or their representative, to treat such piles prior to May 1<sup>st</sup> of the following year. For slash piles that are generated on or after September 1<sup>st</sup>, it will become the responsibility of the landowner, or their representative, to treat such piles prior to May 1<sup>st</sup> of the second year following their creation. This regulatory proposal would extend the available period of treatment from several months to greater than an entire year depending upon the timing of creation of the slash piles.

Additionally, the regulatory proposal does include the option for RPFs to develop an alternative plan in lieu of the prescriptive timeline standards. This option was included because the Board does recognize that the prescriptive standards may not work effectively for all project types and locations. It becomes incumbent upon the RPF to explain and justify why the prescriptive timelines are not compatible with proposed projects and provides deference to the Director to approve such proposals.

### **IS THE PROPOSED REGULATION INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS**

The Board and *CAL FIRE* have conducted a search of any similar regulations on this topic with existing state regulations. The proposed rulemaking is intended to modify existing Forest Practice Rule requirements previously adopted by the Board and implemented by the Department. Adoption and implementation of the State's Forest Practice Rules is solely the responsibility of the Board and Department, respectively. The two agencies therefore conclude the proposed rulemaking is entirely consistent and compatible with existing state regulations.

### **DISCLOSURES REGARDING THE PROPOSED ACTION AND RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

The results of the economic impact assessment prepared pursuant to GC § 11346.3(b)(1) A -D for this proposed regulation indicate that it will not result in an adverse economic impact upon the regulated public or regulatory agencies. Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) benefits of the regulation to the health and welfare of California resident, worker safety, and the state's government.

A benefit will likely be realized by both affected landowners and *CAL FIRE* by providing additional flexibility to landowners for the treatment of slash piles that are created as a result of commercial timber operation and easing the issues that the Department has experienced with enforcement of seemingly over restrictive regulatory standards for hazard reduction.

In addition, the proposed regulation will likely create a positive benefit to the environment and protection of public health and safety. If this proposed regulation is successful in abating the number of conflagrations within the state that may have ignited as a result of slash treatment, then the benefits to the health and welfare of fire fighters, rural residents living with the state's forested environments could be measurably large. The environmental settings such as terrestrial and aquatic will be preserved and spared as a result of this regulation measurably, and particularly when contrast against the ever growing size of wildfires within the state.

The Board has made an initial determination that there will be no significant statewide adverse economic impacts directly affecting business, including the ability of California businesses to compete with businesses in other states.

**Cost impacts on representative private persons or businesses:**

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Effect on small business:**

The Board has determined small businesses are unlikely to notice any effect from the proposed rulemaking. The nominal timeline associated with the pre-consultation process outlined in the regulatory proposal would not result in a significant effect on small business productivity or result in capital expenditures.

**Mandate on local agencies and school districts:**

The proposed regulation does not impose a mandate on local agencies and school districts.

**Costs or savings to any State agency:**

Though *CAL FIRE* may experience some cost savings, any savings are not expected to be significant. Savings to *CAL FIRE* would be abstract and would be represented by deferral or shifting of existing workload of Department staff.

**Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500:**

The proposed regulation does not impose a reimbursable cost to any local agency or school district.

**Other non-discretionary cost or savings imposed upon local agencies:**

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

**Cost or savings in federal funding to the State:**

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

**Significant effect on housing costs:**

The proposed regulation will not significantly affect housing costs.

**Conflicts with or duplication of Federal regulations:**

The proposed regulations neither conflict with, nor duplicate Federal regulations. There are no comparable Federal regulations for timber harvesting on State or private lands.

## **BUSINESS REPORTING REQUIREMENT**

The regulation does not impose a business reporting requirement.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code § 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: Matt Dias  
Assistant Executive Officer  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-8031

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

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection

and copying throughout the rulemaking process at its office at the above address.

All of the above referenced information is also available on the Board web site at:

[http://www.fire.ca.gov/BOF/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

**AVAILABILITY OF 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:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.



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Matt Dias  
Assistant Executive Officer  
Board of Forestry and Fire Protection