

State Board of Forestry and Fire Protection

**Findings Pursuant to Government Code Section 11346.1(b) in Support of
Adoption of Emergency Rules to Implement Fuel Hazard Reduction
Regulatory Relief**

Notice Date: XXXXXX

The California State Board of Forestry and Fire Protection (Board) is promulgating an emergency regulation necessary to provide regulatory relief for an emergency condition relating to public safety and hazardous conditions in State lands, where a permit is required by the Board for tree removal, in accordance with existing statute PRC 4592, Emergency notice; content. The proposed rule defines an Emergency Condition under 14 CCR §1052.1 and specifies the location, treatments and environmental protection measures related to the removal of live and dead fuel (vegetation) hazards near communities, roads and infrastructure facilities. The rule allows filing an Emergency Notice instead of a Timber Harvest Plan when operations are conducted in accordance with the proposed rule conditions of §1052.4, Emergency Notice for Fuel Hazard Reduction. This action is being taken in accordance with Government Code 11346.1 and 11349.6 of the Administrative Procedures Act.

Comments on this emergency regulation may be provided by mail, courier, or fax and should be addressed to

Board of Forestry and Fire Protection

Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Tel: (916) 653-9418

and

Office of Administrative Law
300 Capital Mall Suite 1250
Sacramento, CA 95814
Fax: (916) 323-6826
Tel: (916) 323-6225

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

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

(916) 653-0989

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

Comments must be received by 5:00 PM, xxxxxxxx. It is requested, but not required, that written statements or arguments be submitted in triplicate.

I. Finding of Emergency

State Board of Forestry and Fire Protection (Board) recognizes the urgent, extensive and on-going hazard existing in xxxxxxxx resulting from the xxxxxxxx incident. This hazard is a significant threat to human and natural resources in xxxxxxxx . The imminent emergency nature of the hazard problem has also been recognized by xxxxxxxx.

The Board finds there is an emergency situation present with action needed for immediate preservation of the public peace, health and safety, and the general welfare. The emergency situation is found in the following:

- **The values at stake in wildland fire protection are extensive and at imminent threat.** The Board finds that over 5.4 million acres of all vegetation types in the wildland urban interface have significant fire threat with over 4.9 million housing units are exposed to High, Very High or Extreme Fire Threat as defined by the California Department of Forest and Fire Protection's Fire and Resource Assessment Program. Natural resources are also at risk. Nearly 17 million acres of diverse ecosystems ranging from pine forests in the Klamath/North Coast region to coastal sage scrub communities along the South Coast have high fire threat, where substantial damage to ecological values such as habitat, water quality and quantity, and carbon sequestration could occur following fires.
- **The combination of fuel, weather and valuable human and natural resource assets have created in increasing amount of wildfire and increasing losses.**

Given these situations, the Board declares an emergency condition is found relating to wildlife threat and hazardous conditions in xxxxxxxx, in accordance with existing statute PRC 4592, Emergency notice; content. To address this condition, action is needed for cutting and removal hazardous trees. This action is necessary to better coordinate with federal planning and opportunities, and to expedite projects to increase safety for private citizens, emergency services personnel, and the overall public health and safety of California, by reducing threats where public safety risks are excessive.

The Board finds that regulatory amendments, within the scope of existing legislation and the Forest Practice Rules (Title 14 CCR, Chapters 4, 4.5 and 10), are necessary to provide regulatory relief for expedited fuel hazard reduction of live and dead fuels.

The Board finds that allowing filing of an Emergency Notice instead of a Timber Harvest Plan when operations are conducted in accordance with the proposed rule conditions creates regulatory relief.

The Board finds the general scope of treatment for hazard reduction is of greatest need in xxxxxxxx with significant safety threats primarily within the “Wildland Urban Interface”. This scope focuses on locations in the forested landscape where human assets and wildland conditions are found. Within this area, the primary target groups are private landowners, who often have the least means and capability to complete safety projects in communities.

The Board finds the regulation has incorporated mitigation measures that will eliminate or substantially lessen significant effects on the environment where feasible.

The Board finds the remaining unavoidable impacts, if any, are acceptable in light of the environmental, economic, legal, social, and other considerations, because the benefits of the regulation outweigh the significant and adverse impacts. With implementation of these mitigations, effects will be substantially lessened or eliminated. However, all impacts may not be avoided, particularly related to impacts on wildlife habitat and visual screening. If any impacts remain they are likely minor, and more than overridden by the catastrophic losses resulting from wildfire to life, property, human health, and natural resources considered in the Board’s Emergency Condition Declaration in accordance with PRC 4592, adopted June 9, 2004.

The Board finds the regulatory action related to this declaration shall be implemented as an Emergency Regulation in accordance with the GC 11346.1 of the California Rulemaking Law of the Administrative Procedure Act. Such emergency rule making is necessitated by the findings described in this declaration. In accordance with the code, such regulation would be in effect for 120 days. During this time frame, it is the intention of the Board to evaluate permanent regulations that address the emergency condition.

II. Authority and Reference

Public Resources Code (PRC) 4551 authorizes the Board to adopt rules and regulation as it determines are reasonably necessary to enable, implement, interpret or make specific PRC 4592.

III. Informative Digest/policy statement

The Board recognizes the urgent, extensive and on-going wildfire hazard existing on private forest lands resulting from the combination of increasing quantity and arrangement of natural vegetation. To address this situation, the Board is proposing to amend existing regulation and adopt new regulations within the scope of existing legislation and the Forest Practice Rules Title 14 CCR, Chapters 4, 4.5 and 10, sections §§ 895, 1052, 1052.1 and 1052.4. The proposed rule would be adopted on an emergency basis as provided for in Government Code §11346.1.

The proposed rule would provide regulatory relief for expedited hazard reduction of live and dead trees. The rule defines a new Emergency Condition under section 14 CCR §1052.1 (e) and allows filing an Emergency Notice instead of a Timber Harvest Plan when operations are conducted in accordance with the proposed rule conditions of §1052.4, Emergency Notice for Safety Hazard Reduction.

The general scope of the rule is private lands in and ¼ mile adjacent to “communities at risk”, as listed by the California Fire Alliance. Additionally, 500 feet from certain roads, permitted structures outside of the community areas, and infrastructure facilities.

IV. Specific purpose and Statement of Necessity

The specific purpose of the proposed rule is to address the hazardous situations on private timberlands by providing regulatory relief for expedited hazard reduction of live and dead fuels. This relief is created allowing the filing of an Emergency Notice instead of a Timber Harvest Plan when operations are conducted in accordance with the proposed rule conditions of §1052.4, Emergency Notice for Safety Hazard Reduction.

Section §xxxxx defines a new Emergency Condition. An Emergency condition must be defined, in accordance to PRC 4592, prior to allowing operations to be permitted using an Emergency Notice.

Section §xxxxx is the needed to the requirements under which the Emergency action will take place. Subsection §1052.4(a) require the RPF filing the notice to document the emergency conditions and the vegetative treatments needed to reduce the fuel hazard condition,

Subsection §xxxxxxx identifies the general environmental requirements and restrictions applicable to the proposed rule. Subsection § 1052 (10) and (d) also describe environmental protection requirements specifically related to archaeological values.

Section §xxxxxxx identifies the geographic area where the fuel hazard reduction is permitted.

Subsection §xxxxxxx identifies the vegetative treatments permitted by the proposed rule.

V. Disclosures Regarding the Proposed Action

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- 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: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no statewide adverse economic impact 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 Board is not aware of any cost impacts that a representative private person or businesses would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not have an adverse affect on small business. The proposed regulation is designed to provide regulatory relief, leading to substantial reduction in regulatory filing and preparation fees.
- The proposed rules do not conflict with, or duplicate Federal regulations.