

FINAL STATEMENT OF REASONS (FSOR)

CALIFORNIA CODE OF REGULATIONS TITLE 19, PUBLIC SAFETY DIVISION 1, STATE FIRE MARSHAL CHAPTER 13

STATE-CERTIFIED PRESCRIBED - FIRE BURN BOSS

UPDATE OF INITIAL STATEMENT OF REASONS

The Office of the State Fire Marshal (SFM) has considered all relevant matters presented to it, has updated the Initial Statement of Reasons and recommends approval of the proposed regulatory action.

The regulations adopted by the State Fire Marshal will meet the intent of Health and Safety Code Sections 13155-13159.4 and §13159.7-13159.10 and require participants to successfully obtain and maintain certification as a State-Certified Prescribed-Fire Burn Boss.

PUBLIC COMMENT PERIOD

The SFM made available to the public a 45-day written comment period for the proposed regulation from November 20, 2020, through January 4, 2021. A public hearing was not held nor requested. Following the close of the 45-day public comment period, there were (0) public comments received and there were no changes made to the text of proposed regulations. There were no further comment periods.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD FROM NOVEMBER 20, 2020 THROUGH JANUARY 4, 2021.

The SFM received (0) public comments in response to the initial notice.

EDITORIAL STAFF MODIFICATIONS MADE TO PROCEDURE MANUAL AFTER THE CLOSE OF THE 45-DAY PUBLIC COMMENT PERIOD.

After the close of the comment period, staff identified and made non-substantial editorial modifications to the document incorporated by reference, "State Fire Training Procedure Manual" as follows:

In Section 7.13.1.12:C, text was edited by removing the extra word "to" before the word "for" in the following sentence for grammar: "For lapsed certification, one must reapply to for certification".

In Section 12.1: Forms and Checklists, the Fee Schedule titled: "Fee Assessment, Established Equivalency, Reciprocity, & Upgrade", added missing line to the fee description as follows: "PACE VI: Peer Assessment for State-Certified Prescribed-Fire

Burn Boss” to coordinate with what is identified in the text of regulations in Section 1990.12(d).

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY OR REPORT

The proposed regulation amendments by the Office of the State Fire Marshal were developed in consultation with both the State Board of Fire Services (SBFS) and the Statewide Training and Education Advisory Committee (STEAC), consisting of community colleges, local fire, labor, and regulatory personnel all of whom have reviewed and provided recommendations for the proposed regulations. Senate Bill 1260 served as the only document relied upon in connection with these consultations.

Documents relied upon: The State Fire Marshal relied on the following sources and entered in the rulemaking record as a document relied upon:

1. Senate Bill 1260 (Jackson, Chapter 624, Statutes of 2018). Establishes curriculum development, implementation, certification, and continuing education for engagement in a prescribed burning operation and entrance into contracts related to prescribed burning operation.
2. Strategic Plan, Blueprint 2020. This strategic plan identifies, defines, and describes an updated training and education model for the California State Fire Training system.

INCORPORATION BY REFERENCE DOCUMENTS FOR THIS RULEMAKING FILE

The proposed regulations in Section 1990.00 incorporate by reference the following administrative procedures consisting of the following document:

1. State Fire Training Procedures Manual (May 2020)

The proposed regulations in Section 1990.00(a) incorporate by reference the following administrative forms consisting of the following documents:

2. Fee Schedule (July 2020)
3. State-Certified Prescribed-Fire Burn Boss Application (September 2020)

The proposed regulations in Section 1990.01 incorporate by reference the following Certification Training Standard Guide (CTS) consisting of the following document:

4. State-Certified Prescribed-Fire Burn Boss (September 2020)

It would be cumbersome, unduly expensive, or otherwise impractical to publish these documents and forms in the California Code of Regulations. The documents and forms are made available from the agency, or are reasonably available to the affected public from a commonly known or specified source (posted on the State Fire Training website) at <http://osfm.fire.ca.gov/training/training>.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The SFM can find no facts, documents, testimony, or evidence that this action will have a significant adverse economic impact on any business. The proposed regulation clarifies and adds language that better defines the training fee requirements for the California fire service. There is no significant cost impact anticipated as a result of these regulations.

CONSIDERATION OF REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

The SFM has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts it will place upon the industry. No alternatives considered by the State Fire Marshal would be more effective in carrying out the proposed regulation. This proposed regulation change would be less burdensome to the affected parties than the alternatives and would be more cost effective to private persons. The proposed regulations will be effective in implementing the statutory policies or other provisions of the law. The alternative of no regulatory action would create unclear authority and training standards; would limit innovation resulting in confusion within the fire service on specific training requirements with inconsistent application and deficient business practice.

ALTERNATIVES TO THE REGULATION

The SFM considered the following alternative based on State Fire Training's necessity to develop a certification program for prescribed fire users to certify professionals as fire bosses as required in SB 1260, Chapter 624, Jackson, September 21, 2018.

Alternative 1: Would require amendment to SB 1260 to designate another agency or program to certify these individuals to a common standard or set minimum training standards. The new certification being offered by State Fire Training with the involvement of the Statewide Training and Education Advisory Committee (STEAC) meets the needs of the California fire service based on National Wildfire Coordinating Group (NWCG) guidelines used in its development. Not adopting these courses would result in no training or inconsistent training throughout the state. Under the new rules of SB 1260, a controlled burn can only be conducted according to an agreement with Cal Fire. (Pub. Res. Code § 4475(a).) That agreement must designate a burn boss with final authority to approve and amend the plan for the burning operation and to supervise everyone involved with conducting the burn. (Pub. Res. Code § 4476(b).) Burn Bosses must be certified by the State Fire Marshal. (Pub. Res. Code § 4477(a).)

Without the State Fire Marshal curriculum, there will not be the required certification program for prescribed-fire users to certify professionals in any agency or organization as burn bosses. (Pub. Res. Code § 4477(b).)

ALTERNATIVES DETERMINATION

The State Fire Marshal has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts it will place upon the industry. No

alternatives considered by the State Fire Marshal would be more effective in carrying out the purpose for which the action is proposed nor would they be as effective. They also would not be less burdensome to affected private persons or businesses than the proposed action, nor would they be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of the law. The SFM did not consider any other reasonable alternatives in the development of this rulemaking beyond that previously identified in the Initial Statement of Reasons.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS

The State Fire Marshal has determined that the proposed regulations have no substantial effect to small business. The SFM has identified no alternative that would lessen any adverse impact on small business and still allow the SFM to effectively enforce the regulations. No alternatives were proposed to the State Fire Marshal that would lessen any adverse economic impact on small business.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

DUPLICATION OR CONFLICT WITH FEDERAL LAW

The State Fire Marshal has determined that this proposed regulatory action neither conflicts with nor duplicates any federal regulation contained in the Code of Federal Regulations. There have been no changes in applicable laws related to the proposed action or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.