

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
Fireplace and Stove Wood  
CCR Title 4, Sections 4530 – 4536.2

April 2, 2020

**FINAL STATEMENT OF REASONS**

**UPDATED INFORMATIVE DIGEST**

Preexisting California laws and regulations directly relating to this proposed regulation have not changed during this rulemaking activity. Therefore, there is no change to the effect of the proposed regulation as described in the *Notice of Proposed Action*. Specifically, there are no modifications to the proposed text, no changes to the *Initial Statement of Reasons* (ISOR), and no additional documents relied upon that were added after the publication of the *Notice of Proposed Action*.

**FINAL STATEMENT OF REASONS**

*45-Day Public Review and Comment Period:*

The 45-day notice and public comment period for this proposed regulation began on December 27, 2019, and closed at 5:00 p.m. on February 11, 2020.

The Department did not schedule a public hearing, and a hearing was not requested by any other entity.

The Department's authority to promulgate this regulation is granted in Business and Professions Code (BPC) section 12024.11, which mandates the secretary adopt necessary rules and regulations pertaining to the sale or advertisement of firewood products, and to standardize quantities of measurement for these commodities. Authority is also provided in BPC section 12211 and title 4 California Code of Regulations (CCR) section 4600, requiring the secretary to adopt and incorporate by reference the package checking procedures in the current edition of the National Institute of Standards and Technology (NIST) Handbook 133, *Checking the Net Contents of Packaged Goods* (NIST Handbook 133), "Chapter 3. Test Procedures – For Packages Labeled by Volume, Section 3.14. Firewood – Volumetric Test Procedure for Packaged Firewood with a Labeled Volume of 113 L [4 ft<sup>3</sup>] or Less and Stacked Firewood Sold by the Cord or Fractions of a Cord."

**UPDATE OF DOCUMENTS RELIED UPON**

The Department did not include additional data, technical, theoretical or empirical studies in the rulemaking file, or documents other than those identified in the Initial Statement of Reasons.

## **MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The Department determined that this proposed regulation does not impose a new mandate on local agencies or school districts. The packaged natural firewood test procedures that are published in NIST Handbook 133 are already adopted by reference in CCR section 4600. Therefore, this regulation does not change local agencies' or school districts' responsibilities, normal business operations, or incur additional non-reimbursable costs.

## **ALTERNATIVES CONSIDERED**

The Department determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, lessen the impact on small businesses, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. No alternatives to the proposed regulation were offered by stakeholders during the 45-day public comment period of this rulemaking action.

## **INCORPORATION BY REFERENCE**

As cited in the *Initial Statement of Reasons*, the Department incorporates by reference the 2019 edition of NIST Handbook 130. The latest edition of NIST Handbook 133 is already adopted by reference in CCR section 4600. There are several NIST Handbooks, each over 250-pages long, that the Department utilizes in carrying out its enforcement activities. The Department adopts these by reference because it would be cumbersome, unduly expensive, and otherwise impractical to print the entire text of each NIST Handbook in California regulation. Another reason the Department incorporates by reference the requirements published in NIST Handbooks is that NIST conveniently posts all NIST Handbooks on its website making them readily available and free of charge to the public.

## **SUMMARY AND RESPONSE TO COMMENTS**

The Department included a copy of each written comment received during the rulemaking process in this rulemaking file. The Department sequentially numbered each written comment for ease of reference.

During the 45-day public comment period, the Department received three written comments from two stakeholders:

1. Kurt Kautz, Kautz Farms, email comments on January 3 and January 6, 2020, comments 1 and 2; and
2. Mark Anaforian, California Hot Wood, Inc. on January 7, 2020, comment 3.

The Department considered each written comment received and responded to comments individually. The following are summarizations of public comments and the Department's responses to them:

**Summary of written comment 1:**

The commenter offers general support for this rulemaking action. The commenter suggests the Department consider modifying the proposed regulation with alternative language, "in terms of a cubic foot 'or' in terms of a liter," if the Department receives any objections to the current proposal. This comment was made in reference to the Department's proposal to adopt in CCR Title 4, section 4530, the method of sale requirements in NIST Handbook 130, Section IV., Section B., Section 2.4.3. Quantity. Those requirements will replace those currently adopted in CCR Title 4, section 4531.

**Response to this comment:**

The Department appreciates the commenter offering general support of this rulemaking action. The Department did not receive objections or opposition to the proposed text from any other stakeholder. Therefore, the Department makes no further changes to the proposed text.

**Summary of written comments 2:**

The commenter offers general support and claims the proposed language matches the NIST handbooks, which makes California requirements the same as the other states he does business in.

**Response to these comments:**

The Department appreciates the commenter's general support of this rulemaking action and makes no changes to the proposed text.

**Summary of written comment 3:**

The commenter offers general support and endorsement of the proposed regulation, claiming it helps avoid confusion among those purchasing firewood and further clarifies the testing procedure for firewood. The commenter supports that the test procedures are identical to the rest of the United States.

**Response to this comment:**

The Department appreciates the commenter offering support for and endorsement of the proposed regulation and makes no further changes to the proposed text.