

**State of California
Office of Administrative Law**

In re:
Board of Forestry and Fire Protection

Regulatory Action:

Title 14, California Code of Regulations

**Amend sections: 1270.02, 1270.04, 1270.05,
1271.00**

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2020-0720-01

**OAL Matter Type: Emergency Resubmittal
(ER)**

This emergency action by the Board of Forestry and Fire Protection amends the applicability of its State Responsibility Area Fire Safe regulations to exempt the reconstruction or repair of legally constructed homes damaged by wildfire under certain conditions and the creation of accessory or junior accessory dwelling units, as specified.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on July 27, 2020 and will expire on March 27, 2021 pursuant to Executive Order N-40-20. The Certificate of Compliance for this action is due no later than March 26, 2021.

Date: July 27, 2020



Nicole C. Carrillo
Attorney

For: Kenneth J. Pogue
Director

Original: Matt Dias, Executive Officer
Copy: Edith Hannigan

EMERGENCY

STD_400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2020-0720-01ER
For use by Office of Administrative Law (OAL) only		2020 JUL 20 P 1:27	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Board of Forestry and Fire Protection			AGENCY FILE NUMBER (if any)

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUL 27 2020
2:53 PM

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Emergency Fire Safe Regulations Applicability	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2020-0702-05
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 1270.02; 1270.04; 1270.05 ; 1271.00 per agency request
TITLE(S) 14	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input checked="" type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Edith Hannigan	TELEPHONE NUMBER (916) 862-0120	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) edith.hannigan@bof.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE July 20, 2020
TYPED NAME AND TITLE OF SIGNATOR Edith Hannigan, Land Use Planning Program Manager, Board of Forestry & Fire Protection	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
JUL 27 2020
Office of Administrative Law

1 Board of Forestry and Fire Protection

2 Title 14 of the California Code of Regulations (14 CCR),

3 Division 1.5, Chapter 7, Subchapter 2, Article 1

4 Emergency Fire Safe Regulations Applicability

5 § 1270.02. Scope.

6 (a) These regulations shall apply to:

7 (1) the perimeters and access to all residential, commercial,
8 and industrial building construction within the SRA approved
9 after January 1, 1991 except as set forth below in subsections

10 (b-) through (d), inclusive, and (f);

11 (2) the siting of newly installed commercial modulars,
12 manufactured homes, mobilehomes, and factory-built housing, as
13 defined in Health and Safety Code sections 18001.8, 18007,
14 18008, and 19971, except where being sited or installed as an
15 accessory or junior accessory dwelling unit as set forth in

16 subsection (d) below;

17 (3) all tentative and parcel maps or other developments approved
18 after January 1, 1991; and

19 (4) applications for building permits on a parcel approved in a
20 pre-1991 parcel or tentative map to the extent that conditions
21 relating to the perimeters and access to the buildings were not
22 imposed as part of the approval of the parcel or tentative map.

23 (b) These regulations do not apply where an application for a
24 building permit is filed after January 1, 1991 for building
25 construction on a parcel that was formed from a parcel map or

1 tentative map (if the final map for the tentative map is
2 approved within the time prescribed by the local ordinance)
3 approved prior to January 1, 1991, to the extent that conditions
4 relating to the perimeters and access to the buildings were
5 imposed by the parcel map or final tentative map approved prior
6 to January 1, 1991.

7 (c) (1) At the discretion of the local jurisdiction, and subject
8 to any requirements imposed by the local jurisdiction to ensure
9 reasonable ingress, egress, and capacity for evacuation and
10 emergency response during a wildfire, these regulations shall
11 not apply to the reconstruction or repair of legally constructed
12 residential, commercial, or industrial buildings due to a
13 wildfire, to the extent that the reconstruction or repair does
14 not:

15 (A) increase the square footage of the residential,
16 commercial, or industrial building or buildings that previously
17 existed; or

18 (B) change the use of the building or buildings that had
19 existed previously; or

20 (C) construct a new building or buildings that did not
21 previously exist on the site.

22 (2) Nothing in this subsection shall be construed to alter
23 the extent to which these regulations apply to the
24 reconstruction or repair of a legally constructed residential,
25

1 commercial, or industrial building for reasons unrelated to a
2 wildfire.

3 (d) These regulations do not apply to the creation of accessory
4 or junior accessory dwelling units that comply with Government
5 Code sections 65852.2 or 65852.22, or any local ordinances
6 enacted thereunder, as applicable, including any local
7 ordinances requiring provisions for fire and life safety.

8 (ee) Unless otherwise exempt pursuant to this subchapter,
9 affected activities include, but are not limited to:

10 (1) permitting or approval of new parcels, excluding lot line
11 adjustments as specified in Government Code (GC) section
12 66412(d);

13 (2) application for a building permit for new building
14 ~~construction, not relating to an existing structure;~~

15 (3) application for a use permit; and

16 (4) road construction. ~~including construction of a road that~~
17 ~~does not currently exist, or extension of an existing road.~~

18 (f) EXEMPTION: Roads used solely for agricultural, mining, or
19 the management and harvesting of wood products.

20 Note: Authority cited: Section 4290, Public Resources Code.

21 Reference: Sections 4290 and 4291, Public Resources Code.

1 § 1270.04. Local Ordinances.

2 (a) Nothing contained in these regulations shall be considered
3 as abrogating the provisions of any ordinance, rule, or
4 regulation of any state or local jurisdiction provided that such
5 ordinance, rule, or regulation ~~or general plan element~~ is equal
6 to or exceeds ~~more stringent than~~ these minimum standards.

7 ~~The Board may certify local ordinances as equaling or~~
8 ~~exceeding these regulations~~ Counties may submit their local
9 ordinances for certification via email to the Board, and the
10 Board may certify them as equaling or exceeding these
11 regulations when they provide the same practical effect. If the
12 Board determines that the local requirements do not equal or
13 exceed these regulations, it shall not certify the local
14 ordinance.

15 (c) When the Board grants certification, the local ordinances,
16 in lieu of these regulations, shall be applied as described in
17 14 CCR § 1270.02 and used as the basis for inspections performed
18 under 14 CCR § 1270.05.

19 ~~(e) Counties may submit their local ordinances for certification~~
20 ~~via email to the Board.~~

21 (d) The Board's certification of local ordinances pursuant to
22 this section is rendered invalid when previously certified
23 ordinances are subsequently amended by local jurisdictions, or
24 the regulations are amended by the Board, without Board re-
25 certification of the amended ordinances. The Board's regulations

1 supersede the amended local ordinance(s) when the amended local
2 ordinance(s) are not re-certified by the Board. Amendments made
3 by local jurisdictions to previously certified ordinances shall
4 be submitted for re-certification.

5 Note: Authority cited: Sections 4111 and 4290, Public Resources
6 Code. Reference: Sections 4117 and 4290, Public Resources Code.

7
8 § 1270.05. Inspections.

9 Inspections shall conform to the following requirements:

10 (a) Inspection shall be made by:

11 (1) the Director, or

12 (2) local jurisdictions that have assumed state fire protection
13 responsibility on SRA lands, or

14 (3) local jurisdictions where the inspection duties have been
15 formally delegated by CAL FIRE to the local jurisdiction.

16 ~~(b) Inspections made under 14 CCR § 1270.05(a)(2) or 14 CCR §~~
17 ~~1270.05(a)(3) shall occur only when these regulations are~~
18 ~~incorporated into local ordinance in one of the following~~
19 ~~manners:~~

20 ~~(1) these regulations have been incorporated verbatim or by~~
21 ~~reference into that jurisdiction's permitting or approval~~
22 ~~process for the activities described in 14 CCR § 1270.02; or~~

23 ~~(2) the local ordinances have been certified pursuant to 14 CCR~~
24 ~~§ 1270.04;~~

1 (eb) Nothing in this section abrogates CAL FIRE's authority to
2 inspect and enforce state forest and fire laws even when the
3 inspection duties have been delegated pursuant to this section.

4 (dc) Reports of violations shall be provided to the CAL FIRE
5 Unit headquarters that administers SRA fire protection in the
6 local jurisdiction.

7 (ed) When inspections are conducted, they shall occur prior to:
8 the issuance of the use permit or certificate of occupancy; the
9 recordation of the parcel map or final map; the filing of a
10 notice of completion; or the final inspection of any project or
11 building permit.

12 Note: Authority cited: Sections 4111, 4119 and 4290, Public
13 Resources Code. Reference: Section 4290, Public Resources Code.

14
15 § 1271.00 Definitions

16 [...]

17 Residential unit: Any building or portion thereof which contains
18 living facilities, including provisions for sleeping, eating,
19 cooking and/or sanitation for one or more persons. Manufactured
20 homes, mobilehomes, and factory-built housing are considered
21 residential units for the purposes of mandatory measures
22 required in 14 CCR § 1270.01(c)-, unless being sited or
23 installed as an accessory or junior accessory dwelling unit in
24 accordance with 14 CCR § 1270.02(d).

25 [...]

1 NO OTHER CHANGES PROPOSED TO SECTION

2 Note: Authority cited: Section 4290, Public Resources Code.

3 Reference: Sections 4290 and 4291, Public Resources Code.

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