

Board of Forestry and Fire Protection

SUPPLEMENTAL STATEMENT OF REASONS

**“State Minimum Fire Safe Regulations, 2021”
Title 14 of the California Code of Regulations (14 CCR),
Division 1.5, Chapter 7, Subchapter 2, Articles 1-5**

The Board of Forestry and Fire Protection (Board) intends this Supplement to the Initial Statement of Reasons (ISOR) to reflect changes that have been made to the 45-Day proposed rule text and Initial Statement of Reasons, which was distributed on April 23, 2021.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL (pursuant to GOV § 11346.2(b)(1)) AND THE RATIONALE FOR THE AGENCY’S DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSE(S) OF THE STATUTE(S) OR OTHER PROVISIONS OF LAW THAT THE ACTION IS IMPLEMENTING, INTERPRETING OR MAKING SPECIFIC AND TO ADDRESS THE PROBLEM FOR WHICH IT IS PROPOSED (pursuant to GOV §§ 11346.2(b)(1) and 11349(a) and 1 CCR § 10(b)).

Universal Changes

Subsections were re-numbered or re-lettered as necessary to reflect the movement, deletion, or addition of regulatory text.

Defined terms were capitalized.

The terms “Local Jurisdiction” and “Fire Authority” were universally replaced with “Authority Having Jurisdiction (AHJ).” Unless otherwise specified, the purpose and necessity for this change can be found under § 1270.01(c).

Amend § 1270.01(a)

A definition for the term “Access” is necessary because it is this Access that determines which Existing Roads, if any, need to meet the standards in these regulations. The purpose of the general definition of access is to provide a scope to these regulations, which are promulgated pursuant to PRC § 4290 and which are required to “perimeters and access to all...building construction” in a certain area. The purpose of this amendment is to clarify that there are Roads that may meet the standards in these regulations but not be determined to be a Collector Road by the agency having jurisdiction. Given that the purpose of this definition in the context of these regulations is to require road improvements to the point that the road meets the Fire Safe Regulations standard, it is common sense to acknowledge that there are Existing Roads that may meet the standards of these regulations but not be classified as Collector Roads. The Board received public comment letters from government agencies such as Nevada County that indicated they have roads that may meet the standards in these regulations but are not categorized as Collector Roads.

Amend § 1270.01(b)

It was necessary to delete the defined term “Agriculture” for clarity and consistent compliance. As different jurisdictions may determine different activities qualify as “agriculture,” it was necessary to delete this definition and instead use different terminology in these regulations to describe agricultural activities. The purpose of these regulations is to provide statewide minimum standards, and delegating the determination of what kinds of activities constitute “agriculture” to local jurisdictions does not effectuate the purpose of these regulations. This will improve consistency between local jurisdictions regarding where and when these regulations apply.

Amend § 1270.01(c)

It was necessary to define the term “Authority Having Jurisdiction” as it is a new term that may have more than one meaning to the regulated public. The purpose of this definition is to provide a single term for the government entities that may be responsible for enforcing these standards and approving Building Construction that is regulated under these provisions. The definition provided here is an adaptation of a definition of AHJ provided by the National Fire Protection Association (NFPA). NFPA writes model codes for the fire service and frequently uses the term “Authority Having Jurisdiction,” so it is also a well-known and commonly used term among the regulated public. Previous terms used in these regulations, “Local Jurisdiction” and “Fire Authority” were less familiar and more confusing to the public, as reflected in comment letters, so it was necessary to use a new term to improve the clarity of these regulations.

The necessity of this change was also articulated in public comment letters such as from the California Fire Chiefs Association. There are many different situations across the state when the review and/or enforcing authority may depend on the local geographic area of a fire protection district, local fire department, or state fire department and the agreements in place with the local jurisdiction. To address these concerns, both definitions were removed and replaced with a more encompassing definition for the Authority Having Jurisdiction (AHJ). The AHJ is a term in practice with well-established codes and standards and therefore provides more consistency.

Amend § 1270.01(f)

It was necessary to define the term “Building Construction,” as it is a term used throughout the regulations and it was not defined. This caused confusion amongst the regulated public, so creating a definition for “Building Construction” improves clarity. In addition, the enabling statute, PRC 4290, requires the Board to write regulations which shall “apply to the perimeters and access to all residential, commercial, and industrial building construction” and as it was necessary to define “perimeter” and “access,” it is also necessary to define “building construction.” This provides clarity regarding which activities may require the application of the Fire Safe Regulations.

The definition of Building Construction is adapted from the definition of “development” in Government Code § 65927. The land use and construction activities included in this definition are those from GOV § 65927 that are relevant to the provisions in the Fire Safe Regulations, given that the regulations provide standards for fire equipment access, building and road signs, water supply, and fuel breaks, greenbelts, and ridgelines. GOV § 65927 is a provision in the State’s Planning and Zoning law, and by relying on this well-known definition in law, this definition of “Building Construction” reduces confusion and provides clarity to the regulated public regarding the application of these regulations. This definition is suitable for use in these regulations because the State’s Planning and Zoning law regulates similar types of activities, i.e., the development of land and the construction of Buildings, and adapting the definition for the use in the Fire Safe Regulations will reduce confusion.

Amend § 1270.01(h)

The phrase “that bend upon vehicular impact and rebound to their original position” was added to the definition of “Clear Width” so as to provide more detail regarding what kinds of posts or barriers may be considered “flexible.” The purpose of this amendment is to allow for road infrastructure that protects cyclists or pedestrians but does not impede fire apparatus access. Flexible posts or barriers, as described, allow for this dual purpose. The Board received public comment letters suggesting similar revisions from Tulare and Santa Clara Counties.

Amend § 1270.01(i)

It was necessary to revise the definition of “Collector Road” to reflect the new defined term “AHJ” as

well for grammar clarity.

Amend § 1270.01(j)

It was necessary to replace the phrase “looped Roads” as public comment letters indicated that phrase was confusing and overly burdensome. Using the phrase “Roads that loop back on themselves” is a clearer description of the type of roads that are to be included in the definition of a “Dead-end Road.” Nevada County’s public comment letter suggested that some loop roads may loop to other through roads, therefor not technically making them a Dead-end Road, even though they would have qualified as a Dead-end Road under the definition in this subsection. The change to this subsection is necessary to specify that roads that loop back on themselves in a “lollipop” shape are to be considered dead-end roads, but that roads that loop in other manners are not to be considered dead-end roads. The Board received public comment letters from government agencies suggesting similar revisions.

Amend § 1270.01(n)

The definition of “Driveway” did not provide sufficient clarity to achieve the purpose of these regulations, so it was necessary to revise this definition for clarity. The specification that Driveways serve “up to two parcels with no more than two Residential Units” was confusing – it was unclear how those Residential Units could be distributed on those two parcels, and if a Driveway could serve two Residential Units that were distributed on more than two parcels, etc. For clarity, this definition was simplified so that a Driveway can serve no more than four Residential Units, regardless of the number of parcels they may be distributed on. It is necessary to establish a definition for Driveways because there are different standards for vehicular pathways that serve as Driveways versus Roads. Linking the distinction between a Driveway and a Road to the number of Residential Units they serve is appropriate because it is necessary to provide a wider driving surface and other requirements on Roads that are serving large numbers of people who may have to evacuate in a Wildfire.

These changes were also suggested in public comment letters, such as that from the Los Angeles County Fire Department.

Amend § 1270.01(p)

A new definition for “Existing” is necessary because that term is used throughout the regulations and without a specific definition, the term is not clear enough to effectively achieve the purpose of these regulations. This definition specifies that something is “Existing” when it is legally established, ie approved on a subdivision map or building permit through a local planning or land use process, or legally in place, ie, legally constructed, prior to a proposal relating to Building Construction subject to these regulations. By specifying a definition for “Existing,” there is greater clarity regarding which infrastructure – whether approved on a map or permit or physically on the ground – is subject to the requirements for Existing Roads, Driveways, etc.

Amend § 1270.01(q)

It was necessary to specify a definition for “Existing Road” because the use of the term alone was not enough to provide sufficient clarity in order to achieve the purpose of these regulations. Without a definition for “Existing Road,” it may have been interpreted that an Existing Road that was previously exempt from these regulations under § 1270.03(d) may be used for other uses but not required to meet the standards in these regulations. The definition for “Existing Roads” specifies that where an Existing Road was constructed under the exemption in § 1270.03(d) and it is now to be used for a purpose not specified in § 1270.03(d), it does not qualify as an Existing Road and shall be required to meet the appropriate Road standards in these regulations. The definition of Existing Road also specifies that an Existing Driveway is not an Existing Road if that Driveway is part of a proposal

where that Driveway will serve more than four Residential Units. This reinforces the definitions of “Driveway” and the definition of “Existing” and improves clarity, which avoids confusion and low rates of compliance with these regulations.

Amend § 1270.01(r)

The term “Finished Grade,” as used in § 1275.04, had multiple interpretations within the regulated public, and so it is necessary to provide a definition for the term. The definition of “Finished Grade” provides clear, specific guidance for how the regulated public should calculate the required distance in § 1275.04. It is necessary to measure the required 18” in § 1275.04 from the highest finished point surrounding the fire hydrant to ensure wrenches can fully rotate around the hydrant. Without a definition for “Finished Grade,” at times this 18” would be measured from a roadway but then a curb would be installed which would decrease the amount of space between the hydrant and the ground, making it impossible to rotate a wrench around the hydrant valve. Defining the term “Finished Grade” provides clarity and consistency to the regulated public.

Amend § 1270.01(p)

The definition of “Fire Authority” was deleted as that term is no longer used in these regulations. The more familiar and inclusive term “AHJ” is used instead.

Amend § 1270.01(u)

It was necessary to amend the definition of the term “Greenbelt” in order to more accurately reflect the diversity of locations a greenbelt may exist in relation to Building Construction that is subject to these regulations. The defined term “Development” was deleted because it was determined the defined term “Building Construction” was more accurate and provided greater clarity, and the definition was revised for general grammar and clarity. Public comment letters from Santa Clara and Butte Counties also reinforced the necessity for this change, requesting that the definition of “Greenbelt” not limit the use of Greenbelts to urbanized areas and to request clarity regarding the intention of where Greenbelts may be installed.

Amend § 1270.01(w)

The definition for “Hammerhead/T” was revised to more accurately reflect that a Hammerhead/T is not a Road or Driveway but rather a portion thereof. This creates consistency between definitions.

Amend § 1270.01(w)

The defined term “Local Jurisdiction” was deleted as it is no longer used in these regulations. Please see necessity and purpose statements under § 1270.01(c).

Amend § 1270.01(z)

The definition for the term “Local Responsibility Area” was revised to address an inconsistency with statute. The amendments to this definition use the terminology that is also used in the cited statute, PRC 4125, which provides greater clarity to the regulated public and remedies the inconsistency.

Amend § 1270.01(cc)

The definition of “New Road” was amended to become a definition for the term “New.” A definition for “New” was required to establish the opposite of “Existing,” in order to provide clarity to the regulated public regarding which kinds of regulated Building Construction and associated regulated activities are considered new versus existing. This definition establishes that something that is proposed or otherwise not legally established (such as via an approved building permit or approved subdivision map) or legally in place at the time of a proposal for Building Construction is considered “New,” which is necessary to determine when a standard for a “new” road or driveway, for example, are applicable, as opposed to requirements for “existing” roads or driveways.

Amend § 1270.01(ee)

The definition of “One-way Road” was revised for clarity, to specify that it is a Road, rather than another type of vehicular pathway, that provides traffic flow in one direction.

Amend § 1270.01(ff)

The term “map” was added after “tentative and final” for grammar clarity. This change does not have a regulatory impact.

Amend § 1270.01(gg)

A definition for the term “Repair” was added, as these regulations exclude certain repairs from the application of these regulations, and without a specific definition for “Repair” it was unclear to what activities those exclusions might be applicable to. This definition allows damage to be corrected or maintenance activities to be performed on roads, water supply systems, and other infrastructure without requiring that infrastructure to be improved to the standards in these regulations. Without a definition for “Repair,” maintenance may be deferred due to the additional cost of upgrading infrastructure in addition to the repairs; a system that is substandard yet well-maintained is more fire safe than a system that is both substandard and in need of repair. This definition provides the necessary clarity for the regulated public to implement these regulations as they apply to existing systems requiring repair.

Amend § 1270.01(hh)

The definition for “Residential Unit” was revised for grammar clarity and for alignment with related fire and building codes that also define “Residential Unit.” These definitions specify that a Residential Unit is one that includes provisions for sleeping, but not necessarily provisions for eating, cooking, or sanitization. The existing definition of “Residential Unit” in the Fire Safe Regulations considered a structure a Residential Unit if it included all those provisions. This resulted in an under-inclusive term; the existing definition does not capture structures where people are sleeping but not necessarily eating, cooking, or sanitizing. As these regulations are intended to provide standards for ingress and egress for residential Building Construction, it is important that the definition of Residential Unit capture all types of facilities where people may be sleeping and residing. The definition was split into two sentences for ease of reading.

Amend § 1270.01(ii)

The definition of Ridgeline was revised for greater clarity and ease of use by the regulated public. The additional clause “an area of higher ground separating two adjacent streams or watersheds” is a common descriptor of ridgelines and tool for identifying them. This particular terminology was used in CAL FIRE’s Amador-EI Dorado Unit Fire Plan, where they used this language as a tool to identify ridgelines within their jurisdiction.

Amend § 1270.01(jj)

The definition of “Road” was revised for consistency with the new definition for “Driveway.” Please see § 1270.01(n) for purpose and necessity.

Amend § 1270.01(hh)

The term “Road or Driveway Structures” was deleted as that term is no longer used in these regulations. This definition was redundant and confusing and did not reflect common engineering design terminology.

Amend § 1270.01(mm)

The phrase “a Building of any kind” was deleted from the definition of “Structure” because it is

redundant. By specifying that a “Structure” is “that which is built or constructed,” a “Building” is already included within that definition.

Amend § 1270.01(nn)

The definition of “Substantial Compliance” was revised to include the variation “Substantially Complies,” as that term is also used in these regulations and it is intended to be defined the same way as “Substantial Compliance.”

The proposed definition of “Substantial Compliance” did not provide enough clarity to effectuate the purpose of these regulations. The amendments to this section specify that Substantial Compliance requires ensuring the absence of limitation to concurrent Fire Apparatus ingress and civilian evacuation, which is consistent with the requirements of § 1273.00(a). It is necessary to specify this requirement for concurrent Fire Apparatus ingress and civilian evacuation in order to ensure that “Substantial Compliance” still effectuates the purpose of these regulations. In addition, the amendments allow for minor noncompliance with the regulations so long as each applicable material requirement of the Fire Safe Regulations are nearly completely satisfied. These amendments provide greater clarity, will improve compliance, and are consistent with the rest of this proposed regulatory scheme.

Amend § 1270.01(qq)

The term “Turnaround” was revised because it was necessary to specify that a Turnaround is situated at the end of a Road or Driveway, rather than be more generally “a portion of a Road or Driveway.” As the term is used in the rest of the regulations, a Turnaround is only required at the end of Roads or Driveways, so it would follow that the definition specify such.

Amend § 1270.01(ss)

The definition of “Undeveloped Ridgeline” was overly prescriptive. Previously, the definition proposed that an Undeveloped Ridgeline was one with no Buildings. Specifying instead that an Undeveloped Ridgeline is one that does not have any Residential Units or commercial or industrial Buildings expands the scope of which Ridgelines may be considered “undeveloped” for the purposes of § 1276.02. It was determined it was overly burdensome to establish that any given Building on a Ridgeline no longer qualified the Ridgeline as Undeveloped; there are Buildings that may be constructed that have a limited impact on fire safety, such as some Group S Buildings, and the Ridgeline might still be considered to be Undeveloped. This change was necessary to provide greater flexibility to local government in applying § 1276.02.

Amend § 1270.01(vv)

A definition for “Vertical Curve” was added for additional clarity, as Vertical Curves are regulated by these standards but a definition for such curves had not been provided, which was proving confusing. This definition provides enough description for the regulated public to understand the design and purpose of Vertical Curves.

Amend § 1270.01(yy)

It was necessary to revise the definition of “Wildfire” because the cited code sections, PRC 4103 and 4104, did not use the term “wildfire.” The definition of “Wildfire” now provides greater clarity by referencing the relevant terminology from PRC 4103 only. The reference to PRC 4104 was deleted, as the term “uncontrolled fire” is already incorporated into the definition of “forest fire” in PRC 4103.

Amend § 1270.02

Subsection (a) was amended to delete the term “Development,” as that term is no longer a defined term in these regulations.

Subsection (b) was amended for general clarity and consistency with the statute, but provides for no substantive regulatory change from the previously noticed version.

Subsection (c) was amended to more accurately reflect the types of water supply regulated under this Subchapter.

Subsection (d) was amended to more accurately capture the purpose of these regulations and to reduce confusion.

Amend § 1270.03

Subsection (a)(3) was deleted, as it was confusing and redundant. The planning tools described in (a)(3) are captured within the definition of Building Construction as that term is used in subsection (a)(1). This deletion is necessary to reduce confusion and improve compliance with the regulations. Additionally, the phrase “newly installed” was replaced with the phrase “or installation,” to avoid using a defined term in a manner other than for which it is defined. This will reduce confusion.

Subsection (b) was amended to delete “in the SRA,” as this language is taken from statute and the statute does not specify that provision only applies to the SRA. The phrase “approved prior to January 1, 1991” was moved for general written clarity, and because the last phrase in this section was deleted but this language needed to be retained in this subsection. The phrase was deleted because it was redundant of subsections (b)(1) and (b)(2), which have now been reorganized into one subsection (b). This reorganization 1) reduces confusion regarding the application of this requirement and 2) provides for greater written clarity which will 3) improve compliance.

Subsection (c) was moved to a new section, § 1270.08. Please see that section for purpose and necessity.

It was necessary to revise subsection (d), as the existing language was unclear regarding which particular requirements were or were not applicable to the Roads used for the enumerated purposes. Existing language stated “These regulations do not apply to Roads...,” which was confusing because these regulations contain requirements for more than Roads, ie, water supply, building numbering, fuel breaks, etc, and it was unclear if those requirements still applied to the Roads otherwise exempted in this subsection. Subsection (d) was revised to specify that the Road requirements did not apply to the Roads exempted in this subsection, but the other standards may apply, if Building Construction subject to these regulations is occurring.

Further amendments to subsection (d) delete the term “agriculture,” as it is no longer a defined term, and instead describe the processes related to agricultural activities that would qualify a Road to be exempt from these regulations. Please see § 1270.01(b) for purpose and necessity regarding the deletion of this defined term. In consultation with the Department of Food and Agriculture, it was determined that exempting the planting, growing, or harvesting of plants would effectuate the purpose of this regulation. Such activities provide for limited fire risk, and so it is overly burdensome to require Roads serving such purposes to meet the standards in this regulation.

New subsections (e) through (i) were added to improve the clarity of these regulations regarding their application.

Subsection (e) is existing language, modified to accommodate the procedural revisions within the proposed action related to an AHJ, from § 1270.03(a) that was deleted in the 45 day notice but included here. Including this requirement is necessary to ensure that CAL FIRE is properly informed

of ongoing projects and that they'll have an opportunity to ensure the project complies with the standards in these regulations.

Subsection (f) is also existing language that was deleted in the 45 day noticed text but included here. This language is necessary to include in order to specify CAL FIRE's authority to review and make recommendations regarding compliance with these regulations. This is necessary to effectuate the purpose of these regulations – that minimum fire safety standards are applied consistently across the state.

Subsection (g) is added for clarity regarding the timeframe in which these regulations apply. It was unclear to the regulated public if these requirements were retroactive, so it was necessary to specify that these regulations only apply when one is seeking approval from an AHJ for relevant Building Construction. This will further the purpose of these regulations to provide for consistency applied minimum fire safe standards across the state.

Subsection (h) is added in order to make specific that an inspection, as described in § 1270.05 Inspections, is required to occur before applicable construction or development is approved. § 1270.05 on its own did not provide enough clarity to effectuate the purpose of these regulations, and so a specific requirement that an inspection shall occur was necessary.

Subsection (i) was added because there was confusion regarding which standards in the regulations are applicable to any given construction. As these regulations are amended on occasion, it was necessary to specify that the standards that apply are those that were in place when the construction was approved. This is necessary to effectuate the purpose of these regulations, the consistent application of statewide minimum standards for fire safety.

Amend § 1270.04

Subsection (c) was revised to specify that the AHJ cannot apply exemptions to these regulations that are not specified in these regulations. The AHJ may apply other exemptions unrelated to these regulations, so it was necessary to add "to these regulations" to this section.

Subsections (d), (e), and (f) were deleted because they were determined to be non-regulatory in nature and therefor confusing. The proposal in those subsections was a voluntary process by local governments, and a voluntary review by the Board, and as non-regulatory process presented in regulations, it created confusion regarding the requirements of local governments versus the Board and whether or not it was a mandatory process. Since the entire process is optional, it was necessary to delete these subsections.

Amend § 1270.05

The term "local jurisdiction" was replaced with the newly defined term "AHJ" where appropriate. In subsections (a)(2), (a)(3), and (b), the term "local jurisdiction" was replaced with "local agency," because section 1270.05 sets out the requirements for which a local agency becomes the Authority Having Jurisdiction. Since the local agency does not yet have the jurisdiction to inspect for compliance with these regulations, a different term from "AHJ" was necessary.

In subsection (b)(5), "Local Jurisdiction" was replaced with the term "area," as local jurisdiction is no longer a defined term and "area" is a more commonly used and understood term that provides for the same meaning in this subsection.

In subsections (c) and (f), "Local Jurisdiction or Fire Authority" was deleted, since those are no longer defined terms, and replaced with "appropriate local AHJ." AHJ is a defined term. It is necessary to

specify “appropriate local AHJ,” as CAL FIRE may be the AHJ in some instances (ie, inspections in the SRA) but the Department is not the appropriate inspection authority in the LRA. Subsection (f) was also revised for general clarity and written grammar.

Amend § 1270.06

The term “inspection entity” was replaced with the defined term AHJ or with the term “inspector.” “Inspection entity” was not a defined term and it was unclear regarding who or what that might be referring to. In instances where the proposed regulation was meant to indicate a government agency, the term AHJ was used. In instances where the proposed regulation was meant to indicate the individual inspector, the term inspector was used. In a third series of instances, “Local Jurisdiction” was replaced with “the governmental body hearing the appeal,” as this entity may be a different governmental body than the AHJ. This was necessary to reduce confusion amongst the regulated public.

Subsection (b) was revised to specify that the AHJ retains the authority to determine if Exceptions to the standards in this Subchapter will be considered. It was overly burdensome for AHJs for the Board to require that they consider Exception requests, and so that authority has been specifically delegated to the AHJ in this amendment. Further amendments were necessary to broaden the scope of subsection (b) to all decisions made by the AHJ on Exceptions, as all of the requirements in (b)(2) are intended to apply to all decisions contemplated by the AHJ on Exceptions, not just Exceptions that are granted. This language provides a consistent process for considering Exceptions and for making a decision on Exceptions by the AHJ. It was necessary to add, in addition to the Exception decision, “all relevant documentation” be forwarded to CAL FIRE when a decision is made on an Exception. This provides CAL FIRE with the necessary context and background info when receiving and filing Exceptions.

Subsections (b)(2) and (e) was revised to delete the requirement that exceptions granted by the AHJ be forwarded to the Board’s office and kept on file. It was necessary to make this deletion because it was determined that requirement introduced confusion amongst the regulated public and would be overly burdensome for the Board’s staff to manage.

Subsection (c)(1)(E) was added to allow for additional information to be included in request for an Exception if the applicant or applicant’s representative deems it relevant. Without this permissive language, the requirements for materials to be submitted with an Exception request were overly prescriptive and did not allow for the applicant to submit information detailing any unique circumstances that the AHJ might want to contemplate in their consideration of the Exception request.

Subsection (d) was revised to specify that the decision by an AHJ to not consider an Exception request may not be appealed, but decisions on Exception requests, whether the Exception is granted or denied, may be appealed. As a practical matter, the decision by an AHJ to not consider an Exception request does not have a record with which appeal to a higher governmental body. This addition to this subsection is necessary to provide clarity on the types of appeals which may be pursued under these regulations.

Changes were made to subsection (e) for general written clarity and to promote the incorporation of the AHJ within the proposed action. This will improve compliance.

Adopt § 1270.08

It was necessary to create a new subsection in Article 1 regarding the application of these regulations to buildings being reconstructed after a wildfire in order to gather all the related requirements for wildfire rebuilds in one place. Previously, each of these particular requirements were spread

throughout the regulations, making it difficult for someone impacted by wildfires to find the relevant requirements for rebuilding. By moving this language into one section in Article 1, this information is easier to find, which will reduce confusion and improve compliance.

Amend § 1273.00

Subsection (a) was revised for clarity. As these regulations apply to New Building Construction and Existing Roads, it was necessary to specify that the requirements for concurrent Fire Apparatus ingress and egress apply to both New and Existing infrastructure. The previously proposed text did not make this clear.

The Board no longer proposes adoption of Subsections (b) and (c).

The newly relettered subsection (b) was revised to provide greater specificity regarding which requirements apply to New or Existing Roads and other infrastructure. These subsections now specifically enumerate which sections apply to what kinds of infrastructure, and have been revised to use defined terms or to delete terms that are no longer defined. This provides additional clarity to the regulated public.

Subsection (b) was further revised to apply only to the high and very high fire hazard severity zones in the SRA and the VHFHSZ in the LRA. Since these hazard areas pose the greatest risk to Building Construction, it was most appropriate to place the most restrictive requirements in the areas with the highest hazard.

The Board no longer proposes adoption of Subsection (d).

Amend § 1273.01

The term "Road Structure" was deleted, as that term is no longer defined and was confusing, and was replaced with the term "appurtenant surface," which is a more commonly used term in the road engineering and design professions. This change was necessary to improve the clarity of the regulations for the regulated public.

In subsection (d), it was necessary to delete the phrase "in areas" for clarity. It is not so much that intersections are "in areas" where there is no on-street parking or bike lanes, but rather the intersection itself that does not have such road uses.

Figure 1 was amended with a clearer drawing. This amendment was necessary to more clearly demonstrate that the required dimensions are measured from the center of the inside lane. This was not clear to the regulated public in the proposed Figure 1, so it was necessary to revise the Figure to reduce confusion.

Amend § 1273.02

The phrase "and appurtenant driving surfaces such as culverts that supplement the Traffic Lane" or "...supplement the Driveway" was added to subsection (a) and (b) to specify that all aspects of the Road are required to meet the surface requirements in this section. Without this specification, a Traffic Lane might be able to carry the required minimum weight, but other appurtenant surfaces might not be, which would create areas of a Road that are at risk of collapse if traversed by a vehicle heavier than the weight rating of the appurtenant surface. Adding that phrase to this section ensures a Road and its various appurtenant driving surfaces are constructed with a consistent load bearing requirement.

In subsection (b), 36,0000 was revised to delete the last zero. This is a typo; the intended weight

requirement is thirty-six thousand pounds (36,000).

Amend § 1273.03

It was necessary to add “New” throughout this section to specify that this signage was not retroactive and is only required to be installed when New bridges are installed pursuant to the standards in this Subchapter. It was confusing to the regulated public whether this requirement would require the installation of signs in front of Existing bridges that were not part of any particular Building Construction subject to this Subchapter.

Subsection (b) was further amended to specify that if an Existing bridge provides Access to Building Construction, signage must be posted at the entrances to the bridge when the weight rating is less than 75,000 pounds. 75,000 pounds is the weight requirement for Roads, and so where an Existing bridge provides Access to Building Construction, it is important to note if that bridge does not provide for the same weight rating. It is necessary to require this signage in order to reduce the likelihood of bridge collapse during a Wildfire event, as those traversing the bridge will be aware that the bridge is not rated for the same weight as the Road.

Subsections (b)(1) and (b)(2) were deleted for safety and for consistency. It was determined that, in order to provide for a Road network that supported the imposed weight of Fire Apparatus, a prescriptive standard for bridge weight requirements is necessary, rather than allowing for local flexibility. During a Wildfire, there may be responding Fire Apparatus from all over the State or the country, and it would be impossible to determine which equipment might be “most likely” used to respond to the fire. Therefore, a statewide minimum standard is necessary.

Subsection (b)(3) became a new subsection (c) and was revised for general clarity. It also specifies that the use of the AASHTO standards are an appropriate method for determining the bridge meeting the required weight rating. The previous language in this section was unclear, so this change is necessary for improving clarity and ultimately compliance with this section.

Subsection (c) was relettered to subsection (d). In subsection (d), the term “surfaces” was deleted and replaced with “structures” for greater clarity. “Elevated structures” is a more broadly understood term and is consistent with terms used throughout this Subchapter in relation to “bridges and/or elevated structures.”

Subsection (d) was relettered to subsection (e). The first sentence in this section was deleted because it implied that a bridge or elevated structure could be designed with one traffic lane and that would completely satisfy the requirements of this section. The purpose of this regulation is to establish a minimum weight rating for bridges and elevated structures, and allowing a bridge with only one traffic lane and no weight rating requirement does not effectuate the purpose of this section. Subsection (d) allows for one-lane bridges to be constructed but does not exempt those bridges from the weight requirements.

Subsection (e) was relettered to subsection (f) and the word “New” was added to specify that it is new bridges that shall be constructed of noncombustible materials. It was unclear to the regulated public when this requirement applied, and so specifying this requirement is applicable to new bridges and elevated structures will improve compliance and further the purpose of these regulations to establish consistently applied statewide minimum standards.

Amend § 1273.04

“New” was added in front of Roads and Driveways in this section to specify that this requirement is not retroactive to Existing Roads and Driveways that are not part of Building Construction subject to

these regulations. This was necessary to reduce confusion regarding what standards in this Article are requirements for New, versus Existing, infrastructure. This will improve compliance and further the purpose of these regulations to establish consistently applied statewide minimum standards.

Amend § 1273.05

“New” was added to subsections (a), (b), (c), and (d) to specify these requirements are not applicable retroactively to Existing Roads and Driveways that are not part of Building Construction subject to these regulations. This was necessary to reduce confusion regarding what standards in this Article are requirements for New, versus Existing, infrastructure. This will improve compliance and further the purpose of these regulations to establish consistently applied statewide minimum standards.

Subsection (b) was split into two subsections, (b) and new (c), for clarity. Subsection (b) now specifies that New bidirectional Roads with a center median are required to have 20 feet of Clear Width on each side of the median. This requirement was proposed in the existing subsection (c), but because it was combined with the requirement for Clear Widths on One-Way Roads, it was confusing for the regulated public to find and apply this requirement. Moving the Clear Width requirement for bidirectional Roads to its own section is necessary to ensure consistent implementation of this requirement.

Similarly, a new subsection (c) was revised to place all the requirements for One-way Roads in one section. This ensures consistent implementation of the requirements and reduces confusion amongst the regulated public.

Subsection (d) was revised to delete the requirement for Vertical Clearance on Driveways, since it is redundant of requirements in § 1273.06.

Amend § 1273.08

The term “New” was added in front of Roads in this section to specify that this requirement is not retroactive to Existing Roads that are not part of Building Construction subject to these regulations. This was necessary to reduce confusion regarding what standards in this Article are requirements for New, versus Existing, infrastructure.

Subsection (d) was revised to add a new subsection (d)(2), establishing one situation where a Dead-end Road might connect to another Dead-end Road. This was necessary to ease implementation and compliance with the new requirement in (d)(1) as Building Construction proceeds in areas already classified for Building Construction that may be subject to these regulations and that were intended to be served by Existing Dead-end Roads. Subsection (d)(2) allows New Dead-end Roads to be connected to an Existing Dead-end Road that was constructed prior to July 1, 2022 in order to provide appropriate time for implementation. This allows Building Construction to occur where an area may be zoned or planned for residential, commercial, or industrial Building Construction and access to that construction would rely on an Existing Dead-end Road. Subsection (d)(1) prevents further extension of Dead-end Road networks branching off Dead-end Roads constructed after July 1, 2022. This addresses the need for limiting the amount of Dead-end Road networks that create fire safety risks.

Amend § 1273.09

It was necessary to add subsection (g), which specifies that Turnouts shall not be obstructed. Without this requirement, it was possible that a Turnout would be constructed in compliance with these regulations, but parking or other obstructions may be installed within the Turnout, which would reduce or even eliminate the Turnout’s use during emergency situations. Such situations would defeat the

point of requiring Turnouts and reduce effectiveness of the Turnouts. Santa Clara County submitted public comment related to this issue.

Amend § 1273.10

It was necessary to revise subsection (c) because the required specifications for Turnarounds were unclear to the regulated public. It was unclear if a Turnaround was required to meet all the requirements in the subsequent subsections, or if only meeting some of the requirements was permissible. It was necessary to specify that a Turnaround shall meet all of the requirements in the following subsections, as well as being in compliance with one of the subsequent Figures in this section. Without this clarity, there would be inconsistent implementation of the Turnaround requirements, resulting in non-compliance and reducing fire safety.

Amend § 1273.11 Gates

Subsections (a) and (c) were revised for grammar clarity.

Subsection (d) was also revised for clarity, regarding the direction a swinging gate shall move in order to prevent a vehicle from stopping traffic while it waits for the gate to open. The previous language was impossible to implement, as “in direction of travel” would mean that the gate would open both towards and away from the roadway (assuming the gate was on a bidirectional Road or Driveway). The revised language instead specifies that the gate shall open “to allow a vehicle to stop without stopping traffic on the Road,” which is much clearer to the regulated public and can be implemented with relative ease. In addition, language was added to this section to allow gates to open by sliding sideways, as the previously proposed language did not allow for this. Disallowing sliding gates was overly prescriptive and did not provide for any fire safety benefit, so it was necessary to specify that sliding gates are permissible.

Figure 7 was replaced to more accurately demonstrate the location of the gate relative to the Road.

Amend § 1273.12

Language was added to subsection (a) to specify that while these requirements apply to Existing Roads, these requirements are not retroactive to the degree an Existing Road is not providing Access to Building Construction that is subject to these regulations. It was confusing to the regulated public regarding when Existing Roads are required to meet these standards, so it was necessary to specify which situations would cause these standards to apply to Existing Roads. Similarly, it was necessary to add language to specify that Existing Roads providing Access to Building Construction only needs to meet these standards along one Access route to the Building Construction. If more than one route qualified as Access, the previous language would have required that all Access routes meet these standards, which is overly burdensome and does not provide additional fire safety benefit. Providing for one Access route that meets these standards is sufficient to provide for adequate ingress and egress during a Wildfire.

Subsection (a)(2) was further revised to provide additional clarity and consistency within the regulations. The language in subsection (a)(2) was confusing – it was unclear what qualified as “native surfacing,” and it was questionable whether non-native surfacing for only 50%+1 of the Road’s length would provide for sufficient safety for ingress and egress. As a result, it was necessary to instead require that the Existing Road provide for surfacing which meets the requirements earlier in this Article. Those requirements, in § 1273.02, have been tested against the weight of standard Wildfire fighting apparatus and provide for fire safety. This creates internal consistency within the regulations and provides for a clear, specific standard for the regulated public to understand and implement.

Subsection (b) was moved to § 1270.08. Please see that section for purpose and necessity.

Subsection (c) was revised to move the previous § 1273.13 into this subsection for clarity. As § 1273.13 was really only applicable to the situation described in subsection (c), moving it into (c) provides for ease of reading and understanding, which is necessary to improve compliance.

Amend § 1273.13

This section was deleted and moved into § 1273.12(c). Please see that section for purpose and necessity.

Amend §§ 1274.00 & 1274.01

Subsection (a) in § 1274.00 was deleted and moved to § 1274.01, as the California Manual of Uniform Traffic Control Devices contains information more relevant to the requirements in § 1274.01 than 1274.00. This also improves the flow and general readability of these sections, as the more general provisions are first, in § 1274.00, followed by more specific provisions in § 1274.01. This is necessary to reduce confusion when reading these sections, which improves compliance. This confusion was also mentioned in Los Angeles County Fire Department's public comment letter.

Amend § 1275.00

It was necessary to revise subsection (a) to simplify the application of these standards. The previous language provided overly specific details that were confusing, redundant, and did not necessarily capture all instances where these regulations may be applicable. By using defined terms and simplifying the sentence construction, there will be a resulting increase in improved compliance and fire safety.

Subsection (b) was revised to more clearly specify that it is only the sections of Article 4 that do or do not apply to Existing water and wastewater facilities. Article 4 is the only place where there are requirements for water supply, so it was overly inclusive to state "These regulations shall not apply..." In addition, this subsection was revised to use the defined term Repair rather than the phrase "repaired, reconstructed, or upgraded." It is necessary to use the defined term "Repair" in order to provide greater clarity to the regulated public, thereby improving compliance.

It was necessary to revise subsection (c) because "code standard" was inconsistent with the way the California Fire Code and National Fire Protection Association (NFPA) structure their requirements. The Fire Code provides for "codes" and the NFPA provides for "standards." This section was amended to be more precise with the language used to describe the requirement in the California Fire Code and the NFPA, which provides greater clarity to the regulated public.

Amend § 1275.01

It was necessary to revise the referenced NFPA 1142 standard to reflect the 2022 edition that was released between the initial 45-day notice for this rulemaking and the second notice. It is necessary to reference the most updated and modern code standard so as to avoid conflicts with other codes and to ensure these regulations reflect the most up to date requirements for fire safety.

Subsection (c) was revised to specify that this requirement is applicable to New Building Construction proposals; this requirement is not retroactive to the degree New Building Construction subject to these regulations is not proposed.

Subsection (d) was revised because it was determined to be redundant of the requirements in subsections (a) and (b). It was necessary to delete the sentence beginning "Water supplies required..." in order to reduce confusion and improve compliance.

It was necessary to revise subsection (e) to establish a stronger regulatory requirement for freeze or crash protection. Rather than establish a permissive standard where the AHJ is allowed to determine if freeze or crash protection is necessary, the revisions to subsection (e) require the AHJ to require such protection where water supply might be susceptible to freeze or crash. This improves the resiliency of the water supply system and reduces the likelihood the system will fail as a result of freezing or crash and be out of service during a Wildfire emergency.

Amend § 1275.02

The term “fire retardant” was moved in subsection (a) for improved written clarity.

Subsection (b) was revised to provide greater flexibility to the AHJ regarding where the identification of the fire hydrants may be placed. In researching local requirements for such identification, it was determined another common method for identifying fire hydrants was via blue markers secured to the pavement, as described in (b)(2). It was determined that providing only a single option for identifying fire hydrants was overly prescriptive, and that the blue marker secured to the pavement provided for similar levels of safety as the blue marker on a fire retardant post. It was necessary to amend this subsection to provide that flexibility to local agencies.

Amend § 1275.03

This section was revised for general grammar clarity, and to more clearly specify that locking systems on water sources must be approved by the AHJ as well as that the locking systems require firefighter access. The previous proposed language did not make this requirement clear. Requiring the AHJ to approve the locks ensures that the AHJ has approved the access mechanism and the method of access can be communicated to fire officials prior to a Wildfire emergency.

Amend § 1275.04

The phrase “valve stems and outlets” were added to subsection (a) to specify which sections of the fire hydrants are required to be 18 inches above the Finished Grade. It is important to require that the valve stems and outlets are 18 inches above the grade as it is the stems and outlets that firefighters need to access with wrenches. Without this specification, it is possible other parts of the hydrant may be 18 inches above grade, and the valve stems or outlets would be less than 18 inches. The term “finished surface” was replaced with the defined term “Finished Grade.” Please see § 1270.01(r) for purpose and necessity.

Subsection (b) was revised for general grammar clarity and to specify that an AHJ shall approve, rather than designate, fire hydrant sizes. Rather than pre-emptively “designating” sizes of hydrants, the AHJ can approve hydrant sizes on a case by case basis, which provides the AHJ with greater flexibility.

Amend § 1275.05

It was necessary to revise the referenced NFPA 1142 standard to reflect the 2022 edition that was released between the initial 45-day notice for this rulemaking and the second notice. It is necessary to reference the most updated and modern code standard so as to avoid conflicts with other codes and to ensure these regulations reflect the most up to date requirements for fire safety.

Amend § 1275.06

Subsection (a) was revised for general grammar clarity and to specify that there are two specific individual instances where mobile water supply (mobile water tenders) are allowable under these regulations. By using defined terms and more explicitly stating that water tenders are allowable under either of the two conditions in (a)(1) or (a)(2), the standards in this section are clearer to the regulated

public and will result in greater compliance. Previously, it could be interpreted that water tenders are only allowable when both circumstances in (a)(1) and (a)(2) are occurring, so it was necessary to revise this language to make it clear that either situation was enough on its own to allow water tenders, if approved by the AHJ.

It was necessary to revise the referenced NFPA 1142 standard to reflect the 2022 edition that was released between the initial 45-day notice for this rulemaking and the second notice. It is necessary to reference the most updated and modern code standard so as to avoid conflicts with other codes and to ensure these regulations reflect the most up to date requirements for fire safety.

Amend § 1275.07

Subsection (a)(3) was amended to delete the requirement that defensible space around water supply infrastructure be 100 feet, adjusted for slope. Instead, requiring a simple 100 feet of defensible space is aligned with related codes and standards (see PRC 4291 and 14 CCR § 1299.03) and is easier to measure and implement, thereby improving compliance.

Amend § 1276.00

This section was reformatted for easier reading, and defined terms were capitalized.

Amend § 1276.01

Subsection (b) was amended to clarify that when the required setback in subsection (a) is not achievable due to the stated reasons, an alternative method must be provided that provides for the same purpose as reducing Structure-to-Structure ignition. This language was added for additional clarity when the AHJ is determining the most appropriate alternative to subsection (a). This clarity is necessary to improve compliance.

The phrase “five (5) feet” was removed from the beginning of subsection (b)(1) because it is repetitive of the language later in that subsection requiring “non-combustible material extending five (5) feet horizontally....”

Subsection (b)(3) was revised for grammar consistency with the rest of the subsections in (b). This change has no regulatory effect.

Subsection (b)(4) was revised because Chapter 7A of the California Building Code already represents the best available science regarding the most protective structure hardening requirements. There are few, if any, known structure hardening requirements that exceed the protectiveness of Chapter 7A. However, many of the requirements in Chapter 7A present options for compliance that range from more to most protective. For example, section 707A.3 presents six options for exterior wall coverings. Subsection (b)(4) would require the most protective of those options to be installed if the 30 foot setback in subsection (a) could not be achieved and (b)(4) was chosen as the alternative method of reducing structure-to-structure ignition. It is up to the AHJ to request which particular requirement is determined to be installed. This provides the AHJ with the flexibility to use their expertise to determine the most protective requirement.

Amend § 1276.02

It was determined that rather than specify a particular local agency responsible for identifying Strategic Ridgelines, it was best to replace the terms “Local Jurisdiction” and “Fire Authority” with the defined term AHJ. This provides the maximum amount of flexibility regarding which particular governmental body might determine Strategic Ridgelines. The previously proposed language was overly prescriptive.

It was determined that subsection (c) was overly burdensome. Prohibiting all new Buildings on Undeveloped Ridgelines was unnecessary to “provide greater safety for the perimeters to all residential, commercial, and industrial building construction” and “reduce fire risk and improve fire protection” (PRC 4290(b)). Instead it is more appropriate to prohibit Residential Units on Undeveloped Ridgelines, as this will reduce the risk to the most people without overly burdening other areas designated for development. A new subsection (c)(1) was added to more specifically describe the areas on and around Undeveloped Ridgelines where Residential Units are prohibited. These are the areas common to Ridgelines that pose the greatest fire threat to Structures and so it is necessary to specify that Residential Units are particularly prohibited in those areas. Subsection (c)(2) was revised to reflect the change in (c) that Residential Units are the only Buildings prohibited on Undeveloped Ridgelines. This was necessary for consistency within the regulations.

Amend § 1276.03

The proposed subsection (f) was moved to subsection (c) for greater reading clarity.

The proposed language in § 1276.05 was moved to new subsections (g) and (h). This was necessary to put all the code sections relevant to Fuel Breaks in one section, for ease of navigation and reading. This will improve compliance and thus fire safety regarding Fuel Breaks.

Amend § 1276.04

Subsection (a) was revised because it was necessary to specify that this requirement only applies to Greenbelts and other areas that are intended to serve as Fuel Breaks that are part of a New Building Construction proposal, and not Greenbelts, other areas, or other Fuel Breaks that are not part of Building Constructions subject to these regulations. It was unclear whether these requirements applied to Greenbelts, other areas, or other Fuel Breaks that are not related to Building Construction subject to these regulations, and so it was necessary to revise. The California Farm Bureau and other public comment letters also reinforced this confusion and the necessity to clarify that agricultural land will not be subject to Fuel Break requirements outside of Building Construction subject to these regulations.

It was necessary to revise subsection (b) for consistency with subsection (a), to specify that “portions” of Greenbelts or Greenways or other open areas may serve as areas of refuge, not just the entire Greenbelt, Greenway, or open area.

Repeal § 1276.05

Please see § 1276.03 for purpose and necessity.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT RELIED UPON (pursuant to GOV SECTION 11346.2(b)(3))

In addition to the documents in the ISOR, the Board relied on the following list of technical, theoretical, and/or empirical studies, reports or similar documents to develop the proposed action:

1. National Fire Protection Association (NFPA), “A Better Understanding of NFPA 70E: What Makes Someone an Authority Having Jurisdiction.” NFPA Today, October 16, 2020.
2. CAL FIRE “2020 Unit Strategic Fire Plan Amador-El Dorado Unit”

DOCUMENTS INCORPORATED BY REFERENCE (pursuant to 1 CCR § 20)

Pursuant to 1 CCR § 20(c), the follow documents are incorporated by reference in these regulations:

1. National Fire Protection Association (NFPA), Standard 1142, "Standard on Water Supplies for Suburban and Rural Fire Fighting", 2022 ed.

