

**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: 2021-0430-02

OAL Matter Type: Emergency Readopt (EE)

This emergency action by the Board of Forestry and Fire Protection readopts amendments regarding the applicability of its State Responsibility Area Fire Safe regulations that 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 May 10, 2021 and pursuant to Executive Orders N-40-20 and N-71-20 will expire on December 8, 2021. The Certificate of Compliance for this action is due no later than December 7, 2021.

Date: May 10, 2021



Nicole C. Carrillo
Attorney

For: Kenneth J. Pogue
Director

Original: Matt Dias, Executive Officer
Copy: Edith Hannigan

NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

STD. 400 (REV. 10/2019)

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-		2021-0430-02EE

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

2021 APR 30 P 12:36
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State of the State of California
MAY 10 2021
2:55 pm

AGENCY WITH RULEMAKING AUTHORITY Board of Forestry and Fire Protection	AGENCY FILE NUMBER (If any)
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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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE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 First Readoption	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2020-0702-05E and 2020-0720-01ER
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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 <i>per agency request</i>
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 checked="" 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 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)
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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 §660)	<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 Edith Hannigan <small>Digitally signed by Edith Hannigan Date: 2021.04.30 11:40:38 -0700</small>	DATE April 30, 2021
TYPED NAME AND TITLE OF SIGNATORY Edith Hannigan, Land Use Planning Program Manager	

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ENDORSED APPROVED

MAY 10 2021

Office of Administrative Law

1
2 **Board of Forestry and Fire Protection**
3 **Title 14 of the California Code of Regulations (14 CCR),**
4 **Division 1.5, Chapter 7, Subchapter 2, Article 1**
5 **Emergency Fire Safe Regulations Applicability**
6 **(1st Readoption)**

7 § 1270.02. Scope.

8 (a) These regulations shall apply to:

9 (1) the perimeters and access to all residential, commercial, and industrial building
10 construction within the SRA approved after January 1, 1991, and those approved after
11 July 1, 2021 within the VHFHSZ, except as set forth below in subsections (b) through
12 (d), inclusive, and (f);

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

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

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

22 (b) These regulations do not apply where an application for a building permit is filed
23 after January 1, 1991 for building construction on a parcel that was formed from a
24 parcel map or tentative map (if the final map for the tentative map is approved within the
25 time prescribed by the local ordinance) approved prior to January 1, 1991, to the extent

1 that conditions relating to the perimeters and access to the buildings were imposed by
2 the parcel map or final tentative map approved prior to January 1, 1991.

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

8 (A) increase the square footage of the residential, commercial, or industrial building or
9 buildings that previously existed; or

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

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

12 (2) Nothing in this subsection shall be construed to alter the extent to which these
13 regulations apply to the reconstruction or repair of a legally constructed residential,
14 commercial, or industrial building for reasons unrelated to a wildfire.

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

19 (e) Unless otherwise exempt pursuant to this subchapter, affected activities include, but
20 are not limited to:

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

23 (2) application for a building permit for new building construction;

24 (3) application for a use permit; and

25 (4) road construction.

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

3
4 Note: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290
5 and 4291, Public Resources Code.

6
7 § 1270.04. Local Ordinances.

8 (a) Nothing contained in these regulations shall be considered as abrogating the
9 provisions of any ordinance, rule, or regulation of any state or local jurisdiction provided
10 that such ordinance, rule, or regulation is equal to or exceeds these minimum
11 standards.

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

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

19 (d) The Board's certification of local ordinances pursuant to this section is rendered
20 invalid when previously certified ordinances are subsequently amended by local
21 jurisdictions, or the regulations are amended by the Board, without Board re-certification
22 of the amended ordinances. The Board's regulations supersede the amended local
23 ordinance(s) when the amended local ordinance(s) are not re-certified by the Board.
24 Amendments made by local jurisdictions to previously certified ordinances shall be
25 submitted for re-certification.

1 Note: Authority cited: Sections 4111 and 4290, Public Resources Code. Reference:
2 Sections 4117 and 4290, Public Resources Code.

3
4 § 1270.05. Inspections.

5 Inspections shall conform to the following requirements:

6 (a) Inspection shall be made by:

7 (1) the Director, or

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

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

12 (b) Nothing in this section abrogates CAL FIRE's authority to inspect and enforce state
13 forest and fire laws even when the inspection duties have been delegated pursuant to
14 this section.

15 (c) Reports of violations shall be provided to the CAL FIRE Unit headquarters that
16 administers SRA fire protection in the local jurisdiction.

17 (d) When inspections are conducted, they shall occur prior to: the issuance of the use
18 permit or certificate of occupancy; the recordation of the parcel map or final map; the
19 filing of a notice of completion; or the final inspection of any project or building permit.

20 Note: Authority cited: Sections 4111, 4119 and 4290, Public Resources Code.

21 Reference: Section 4290, Public Resources Code.

22
23 § 1271.00 Definitions

24 [...]

1 Residential unit: Any building or portion thereof which contains living facilities, including
2 provisions for sleeping, eating, cooking and/or sanitation for one or more
3 persons. Manufactured homes, mobilehomes, and factory-built housing are considered
4 residential units for the purposes of mandatory measures required in 14 CCR §
5 1270.01(c), unless being sited or installed as an accessory or junior accessory dwelling
6 unit in accordance with 14 CCR § 1270.02(d).

7 [...]

8 **NO OTHER CHANGES PROPOSED TO SECTION**

9 Note: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290
10 and 4291, Public Resources Code.