

**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: 2021-1124-02

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 December 6, 2021 and will expire on March 8, 2022. The Certificate of Compliance for this action is due no later than March 7, 2022.

Date: December 6, 2021



Nicole C. Carrillo
Attorney

For: Kenneth J. Pogue
Director

Original: Matt Dias, Executive Officer
Copy: Edith Hannigan

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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 **(2nd 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.