

**Board of Forestry and Fire Protection  
Title 14 of the California Code of Regulations**

[Notice Published July 2, 2012]

**15 - DAY NOTICE**

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION AND  
PUBLIC HEARING DATE**

**“SRA Fire Safe Regulations Update, 2011”**

**PUBLIC HEARING DATE**

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the State Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of a regulatory hearing conducted on February 6, 2012. These changes are being proposed in response to concerns raised by the Office of Administrative Law. **The Board will hold a public hearing to consider adoption of revised final rule language at their regularly scheduled meeting on Wednesday, August 8, 2012. The meeting will begin at 8:00am in the First Floor Auditorium of the Natural Resources Building located at 1416 Ninth Street, Sacramento, California.**

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION**

The Board is providing notice of changes made to the proposed regulations publicly noticed for a 45-day review on December 23, 2011, affecting Title 14, Division 1.5, Chapter 7 - Fire Protection, Subchapter 2, SRA Fire Safe Regulations. The following sections are proposed for amendment:

**§ 1270.02(a)(3) & (b). Scope.**

The rule text has been revised to conform more closely to the express findings contained in Attorney General Opinion No.92-807, Daniel E. Lungren, Attorney General, California Department of Justice, March 17, 1993. This document is referenced herein and is central to the Board’s proposed regulation.

**§ 1270.03. Local Ordinances.**

The rule text has been revised to specify that the Board’s *certification* of local ordinances may be rendered invalid rather than the local ordinances themselves.

**§ 1270.05(c). Inspection Authority.**

The rule text has been slightly revised to replace the word “county” with the words “local jurisdiction.”

**§ 1270.07. Exceptions to Standards.**

The rule text has been slightly revised to hyphenate the term, “case-by-case.”

**§ 1270.09. Appeals.**

The rule text has been slightly revised to replace the word “county” with the words “local jurisdiction.”

**In addition, § 1270.01 was entirely removed from the 45-day Notice rule text and does not appear in the 15-day Notice rule text because it was existing rule language that was not proposed for modification.**

**MODIFICATION TO THE INITIAL STATEMENT OF REASONS**

The Initial Statement of Reasons has been modified to include additional relevant documents the Board relied upon in the development of the regulation. The documents previously included in the Initial Statement of Reasons have been replaced with the following eight (8) documents:

1. Request for legal analysis of Calaveras County fire safe ordinances, George Gentry, Board of Forestry and Fire Protection, October 1, 2008.
2. Legal analysis of Calaveras County fire safe ordinances, Deputy Attorney General, Teri Ashby, California Department of Justice, February 27, 2009.
3. Legal review of Board of Forestry and Fire Protection’s proposed Section 1270 regulations, Deputy Attorney General, Teri Ashby, California Department of Justice, March 2, 2010.
4. Attorney General Opinion No.92-807, Daniel E. Lungren, Attorney General, California Department of Justice, March 17, 1993.
5. Residential Wildland Interface Fire Hazards and Protection Responsibilities in Three Fire Prone Counties, Final Research Report, Phase II, Robert G. Lee, University of Washington, July 20, 1983.
6. Enrolled Bill Report, Senate Bill 1075 (Rogers), Department of Forestry and Fire Protection, Carol Williams Bryant, Legislative Program Manager, September 21, 1987.
7. Comments of Harold R. Walt, Chairman of Board of Forestry, to Assembly Natural Resources Committee Interim Hearing, October 21, 1988.
8. Department of Forestry and Fire Protection Memorandum on Application of Public Resources Code 4290 and Attorney General Opinion on Same, Christine Sproul, Senior Staff Counsel, July 26, 1993.

## **PUBLIC COMMENTS**

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

## **WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Monday, July 23, 2012.** The Board will consider only written comments received at the Regulations Coordinator Office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Board of Forestry and Fire Protection  
Attn: Eric K. Huff, RPF No. 2544  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9<sup>th</sup> Street  
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[board.public.comments@fire.ca.gov](mailto:board.public.comments@fire.ca.gov)

## **UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Board is authorized under Public Resources Code Section 4290 to adopt regulations for wildfire protection. The statute, among other things, requires minimum wildfire protection standards in conjunction with building, construction and development in State Responsibility Areas (SRA). The regulations set standards for future design and construction of structures, subdivisions and developments in SRA and provide for basic emergency access and perimeter wildfire protection. These measures provide for emergency access; signage and building numbering; private water supply reserves for emergency fire use; and vegetation modification. This regulation makes several revisions to the existing regulations for the purpose of improving regulatory clarity and uniform implementation of wildfire protection standards association with residential subdivision development.

The Board held a public hearing on February 6, 2012 and subsequently adopted the regulation with one non-substantive amendment to the rule text. Upon submission of the adopted regulation, the Office of Administrative Law (OAL) raised concerns about the inclusion of documents in the Final Statement of Reasons that were not likewise part of the Initial Statement of Reasons. OAL additionally suggested several rule text edits that would bring the regulation more closely into alignment with the referenced Attorney General Opinion. In order to make these necessary revisions to the rulemaking package, the adopted regulation was withdrawn from OAL review and returned to the Board. The Board subsequently directed staff during the June 6, 2012 meeting to provide potential changes to final rule text language and the Initial Statement of Reasons to the public in a 15-day notice (GC § 11346.8(c)). The Board may choose to adopt any one, all, or none of the proposed changes at the hearing scheduled for August 8, 2012.

### **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Eric K. Huff, RPF No. 2544  
Regulations Coordinator  
California Department of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460  
(916) 616-8643

The designated backup person in the event Mr. Huff is not available is Mr. George Gentry, Executive Officer of the Board of Forestry and Fire Protection.

Mr. Gentry may be contacted at the above address or by phone at (916) 653-8007.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the original proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address:

California Department of Forestry and Fire Protection  
Resources Building  
Room 1517  
1416 9<sup>th</sup> St.  
Sacramento, CA 95814  
Attention: Eric K. Huff  
Tel: (916) 616-8643

All of the above referenced information is also available on the Board website at:

[http://www.bof.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://www.bof.fire.ca.gov/regulations/proposed_rule_packages/)

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised.

Proposed revisions to the rule text in the 45-Day notice of rulemaking dated December 23, 2011 are identified in the 15-Day Notice of Rulemaking rule text as follows:

Existing CCR Text ----- No underline or strikethrough

Deletion of text made in the 45-Day Notice ---- ~~single strikethrough~~

Additions of text made in the 45-Day Notice ----- single underline

Deletions of text made in the 15-Day Notice ---- ~~double strikethrough~~

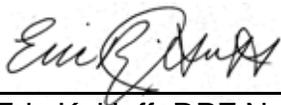
Additions of text made in the 15-Day Notice ----- double underscore

Notice of the comment period and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board.

A copy of the express terms of the modifications of the originally proposed action using DOUBLE UNDERLINE to indicate an addition to the California Code of Regulations and ~~DOUBLE STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for no less than 15 days from the date on which they are made publicly available.



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Eric K. Huff, RPF No. 2544  
Regulations Coordinator  
California Department of Forestry and Fire Protection



1 (b) These regulations do not apply where an application for a building permit is filed  
2 after January 1, 1991 for building construction on a parcel that was formed from a parcel map or  
3 tentative map (if the final map for the tentative map is approved within the time prescribed by  
4 the local ordinance) approved prior to January 1, 1991, and perimeter and access standards to  
5 the extent that conditions relating to the perimeters and access to the buildings were imposed  
6 by the parcel map or final tentative map approved prior to January 1, 1991.

7 (c) Affected activities include, but are not limited to:

8 (1a) Permitting or approval of new parcels, excluding lot line adjustments as specified in  
9 Government Code (GC) Section 66412(d),

10 (2b) application for a building permit for new construction, not relating to an existing  
11 structure,

12 (3e) applications for a use permit,

13 (4d) the siting of manufactured homes (manufactured homes include "mobile homes" and  
14 are as defined by the National Fire Protection Association, National Fire Codes, Section 501A,  
15 Standard for Fire Safety Criteria for Manufactured Home installations, Sites and Communities,  
16 chapter 4-3, Definitions, section 4-2-3.3.8, Definitions, page 4 501A-6, 1987 2009 edition and  
17 California Health and Safety Code Sections 18007, 18008 and 19971).

18 (5e) road construction, including construction of a road that does not currently exist, or  
19 extension of an existing road.

20 (d) EXEMPTION: Roads required as a condition of tentative parcel maps prior to the effective  
21 date of these regulations; Roads used solely for agricultural or mining use; solely on one  
22 ownership; and roads used solely for the management and harvesting of wood products.

23  
24 Note: Authority cited: Public Resources Code Section 4290. Reference: Public Resources Code  
25 Sections 4111, 4290, and 4291; Opinion No. 92-807, Daniel E. Lungren, Attorney General,  
March 17, 1993.

1 **§ 1270.03. Local Ordinances.**

2 Nothing contained in these regulations shall be considered as abrogating the provisions of  
3 any ordinance, rule or regulation of any state or local jurisdiction providing such ordinance, rule  
4 or regulation or general plan element is equal to or more stringent than these minimum  
5 standards. The Board may certify local ordinances as equaling or exceeding these regulations  
6 when they provide the same practical effect. ~~Local ordinances initially certified by the Board~~  
7 ~~pursuant to this section that are subsequently amended by local jurisdictions without additional~~  
8 ~~Board certification are invalid. The Board's certification of local ordinances pursuant to this~~  
9 ~~section is rendered invalid when previously certified ordinances are subsequently amended by~~  
10 ~~local jurisdictions without Board re-certification of the amended ordinances. The Board's~~  
11 ~~regulations supersede the amended local ordinance(s) when the amended local ordinance(s)~~  
12 ~~are not re-certified by the Board. Amendments made by local jurisdictions to previously certified~~  
13 ~~ordinances shall be re-certified as described in 14 CCR §§ 1270.01 and 1270.03.~~

14  
15 Note: Authority cited: Public Resources Code Section 4290. Reference: Public Resources Code  
16 Sections 4117 and 4290.

17  
18 **§ 1270.04. Provisions for Application of these Regulations.**

19 This subchapter shall be applied as follows:

20 **(a)** local jurisdictions shall provide the Director with notice of applications for building permits,  
21 tentative parcel maps, tentative maps, and use permits for construction or development within  
22 SRA.

23 **(b)** the Director ~~may~~ shall review and make fire protection recommendations on applicable  
24 construction or development or maps provided by the local jurisdiction.

25 **(c)** the local jurisdiction shall ensure that the applicable sections of this subchapter become a  
condition of approval of any applicable construction of development permit or map.

1 Note: Authority cited: Public Resources Code Section 4290. Reference: Public Resources Code  
2 Sections 4290 and 4291.

3  
4 **§ 1270.05. Inspection Authority**

5 **(a)** Inspection shall be made pursuant to Section 1270.06 by:

6 **(1)** the Director, or

7 **(2)** local jurisdictions that have assumed state fire protection responsibility on SRA land, or

8 **(3)** local jurisdictions where these regulations have been ~~implemented through~~ incorporated  
9 verbatim into that jurisdiction's building permit or subdivision approval process and the  
10 inspection duties have been formally delegated by CAL FIRE to the local jurisdiction-, or

11 **(4)** local jurisdictions where the local ordinances have been certified pursuant to 14 CCR §§  
12 1270.01 and 1270.03 and the inspection duties have been formally delegated by CAL FIRE to  
13 the local jurisdiction.

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

16 **(bc)** Reports of violations shall be provided to the CAL FIRE CDF-Ranger Unit headquarters that  
17 administers SRA fire protection in that ~~county~~ local jurisdiction.

18  
19 Note: Authority cited: Public Resources Code Sections 4119 and 4290. Reference: Public  
20 Resources Code Section 4290.

21  
22 **§ 1270.06. Inspections.**

23 The inspection entity listed in 14 CCR 1270.05~~inspection authority~~ may inspect for compliance  
24 with these regulations. When inspections are conducted, they should occur prior to: the  
25 issuance of the use permit; certificate of occupancy; the recordation of the parcel map or final  
map; the filing of a notice of completion; or the final inspection of any project or building permit.

1 Note: Authority cited: Public Resources Code Section 4290. Reference: Public Resources Code  
2 Sections 4119, 4290, and 4291.

3  
4 **§ 1270.07. Exceptions to Standards.**

5 Upon request by the applicant, exceptions to standards within this subchapter or local  
6 jurisdiction certified ordinances and mitigated practices may be allowed by the inspection entity  
7 listed in 14 CCR 1270.05 ~~inspection authority~~, where the exceptions provide the same overall  
8 practical effect as these regulations towards providing defensible space. Exceptions granted by  
9 the inspection entity listed in 14 CCR 1270.05 shall be made on a case-by-case basis only.  
10 Exceptions granted by the inspection entity listed in 14 CCR 1270.05 shall be forwarded to the  
11 appropriate CAL FIRE Unit Office that administers SRA fire protection in that county and shall  
12 be retained on file at the Unit Office.

13  
14 Note: Authority cited: Public Resources Code Section 4290. Reference: Public Resources Code  
15 Sections 4290 and 4291.

16 **§ 1270.08. Request for Exceptions.**

17 Requests for an exception shall be made in writing to the inspection entity listed in 14 CCR  
18 1270.05 ~~inspection authority~~ by the applicant or the applicant's authorized representative. The  
19 request shall state the specific section(s) for which an exception is requested, material facts  
20 supporting the contention of the applicant, the details of the exception ~~or mitigating measure~~  
21 proposed, and a map showing the proposed location and siting of the exception ~~or mitigating~~  
22 ~~measure.~~

23  
24 Note: Authority cited: Public Resources Code Section 4290. Reference: Public Resources Code  
25 Sections 4290 and 4291.

1 **§ 1270.09. Appeals**

2 Where an exception is not granted by the inspection entity authority, the applicant may  
3 appeal such denial to the local jurisdiction. The local jurisdiction may establish or utilize an  
4 appeal process consistent with existing local building or planning department appeal processes.  
5 Before the local jurisdiction makes a determination on an appeal, the inspection authority shall  
6 be consulted and shall provide to that local jurisdiction documentation outlining the effects of the  
7 requested exception on wildland fire protection.

8 If an appeal is granted, the local jurisdiction shall make findings that the decision meets the  
9 intent of providing defensible space consistent with these regulations. Such findings shall  
10 include a statement of reasons for the decision. A written copy of these findings shall be  
11 provided to the CAL FIRE CDF-Ranger Unit headquarters that administers SRA fire protection  
12 in that ~~county~~ local jurisdiction.

13  
14 Note: Authority cited: Public Resources Code Section 4290. Reference: Public Resources Code  
15 Sections 4290 and 4291.