

State of California

PUBLIC RESOURCES CODE

Section 4291

4291. (a) A person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, shrub-covered lands, grass-covered lands, or land that is covered with flammable material, shall at all times do all of the following:

(1) (A) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line, except as provided in subparagraph (B). The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained and spaced in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This subparagraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation or to interrupt the advance of embers toward a structure. The intensity of fuels management may vary within the 100-foot perimeter of the structure, with more intense fuel reductions being utilized between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. Consistent with fuels management objectives, steps should be taken to minimize erosion, soil disturbance, and the spread of flammable nonnative grasses and weeds. For purposes of this subparagraph, "fuel" means any combustible material, including petroleum-based products, cultivated landscape plants, grasses, and weeds, and wildland vegetation.

(B) A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation. Fuel modification beyond the property line may only be required by state law, local ordinance, rule, or regulation in order to maintain 100 feet of defensible space from a structure. Fuel modification on adjacent property shall only be conducted following written consent by the adjacent landowner. Any local ordinance related to fuel modification shall be in compliance with all applicable state laws, regulations, and policies. Any local ordinance may include provisions to allocate costs for any fuel modification beyond the property line.

(C) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under subparagraph (A) if a fire expert, designated by the director, provides findings that the fuel modification is necessary to significantly reduce the risk of transmission of flame or heat sufficient

to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.

(2) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(3) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.

(4) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

(5) Before constructing a new building or structure or rebuilding a building or structure damaged by a fire in an area subject to this section, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

(c) (1) Except as provided in Section 18930 of the Health and Safety Code, the State Fire Marshal may adopt regulations exempting a structure with an exterior constructed entirely of nonflammable materials, or, conditioned upon the contents and composition of the structure, the director may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

(2) An exemption or variance under paragraph (1) shall not apply unless and until the occupant of the structure, or if there is not an occupant, the owner of the structure, files with the State Fire Marshal, in a form as the State Fire Marshal shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(d) The State Fire Marshal may authorize the removal of vegetation that is not consistent with the standards of this section. The State Fire Marshal may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the

building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.

(e) (1) The board, in consultation with the State Fire Marshal, shall develop, periodically update, and post on its internet website a guidance document on fuels management pursuant to this chapter. The guidance document shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species that are fire resistant or drought tolerant, or both, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion, such as woodpiles, propane tanks, decks, outdoor furniture, barbecue equipment, and outdoor fire pits.

(2) On or before January 1, 2023, the board, in consultation with the State Fire Marshal, shall update the guidance document to include suggestions for creating an ember-resistant zone within five feet of a structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers.

(f) The State Fire Marshal shall do both of the following:

(1) Recommend to the board the types of vegetation or fuel that are to be excluded from an ember-resistant zone based on the probability that vegetation and fuel will lead to ignition by ember of a structure as a part of the update to the guidance document pursuant to paragraph (2) of subdivision (e).

(2) Make reasonable efforts to provide notice to affected residents describing the requirements added by the amendments to paragraph (1) of subdivision (a) made in Assembly Bill 3074 of the 2019–20 Regular Session before the imposition of penalties for violating those requirements.

(g) (1) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall not take effect for new structures until the board updates the regulations, pursuant to paragraph (1) of subdivision (a), and the guidance document, pursuant to paragraph (2) of subdivision (e).

(2) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall take effect for existing structures one year after the effective date for the new structures.

(h) The department shall not change defensible space inspection practices and forms or enforcement to implement the requirement for an ember-resistant zone until the State Fire Marshal makes a written finding, which the State Fire Marshal shall post on the department's internet website, that the Legislature has appropriated sufficient resources to do so.

(i) For purposes of this section, a structure for the purpose of an ember-resistant zone shall include any attached deck. This section does not limit the authority of the board or the department to require the removal of fuel or vegetation on top of or underneath a deck pursuant to this section.

(j) As used in this section, “person” means a private individual, organization, partnership, limited liability company, or corporation.

(Amended by Stats. 2021, Ch. 382, Sec. 9.5. (SB 63) Effective January 1, 2022.)