

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES

NOTICE OF PROPOSED RULEMAKING

PROPOSED ADOPTION OF NEW CHAPTER AND SECTION

CALIFORNIA CODE OF REGULATIONS

TITLE 19. PUBLIC SAFETY

DIVISION 2. CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES

CHAPTER 1.1. PRIVATE FIRE PREVENTION RESOURCES

NOTICE IS HEREBY GIVEN that the Governor's Office of Emergency Services (Cal OES) propose to add Chapter 1.1, Private Fire Prevention Resources, sections 2470.1, 2470.2 and 2470.3, to Title 19, Division 2, of the California Code of Regulations. If adopted, this proposal would establish regulations for private fire prevention resources operating during an active fire incident and for equipment used by private resource operators during an active fire incident.

PUBLIC PROCEEDINGS

Public Hearing

A public hearing will be held on July 19, 2021, at which time any person may present statements or arguments, orally or in writing, relevant to the action described in this notice. Due to the COVID-19 emergency, the hearing will be conducted virtually. The public hearing will commence at 3 p.m. Pacific Standard Time and can be accessed by dialing 415-906-4037 and entering access code 881128420# or via Teams at https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDMxNDczODQtZmNkYy00NWl4LWI4ZDQtOTFmMzBjZWlxYWM0%40thread.v2/0?context=%7b%22id%22%3a%22ebf268ae-3036-4714-9f69-c9fd0e9dc6b9%22%2c%22oid%22%3a%220be35b13-7cf6-49f7-ad08-4b91703a6a16%22%7d

Written Comment Period

Any written comments concerning this proposed regulatory action, regardless of the form or method of transmission, must be received by Cal OES no later than July 19, 2021, the designated close of the written comment period. Due to possible delays caused by the COVID-19 emergency, Cal OES strongly recommends that written comments be submitted electronically, rather than in paper form, to the emails listed below. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below, but delays may occur if staff are unable to timely access them.

All submissions should be directed to:

Jeff Meston
Deputy Fire Chief
Fire/Rescue Division
Governor's Office of Emergency Services
3650 Schriever Ave
Mather, CA 95655

Email: Jeff.meston@caloes.ca.gov
FAX 916-845-8396

Cal OES is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and e-mail may be available to third parties.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Deputy Chief Jeff Meston at 916-214-3238, or by email at Jeff.meston@caloes.ca.gov. Deputy Chief Lori Lopez is the back-up contact person for inquiries concerning this action and is available at 916-845-8722, or by e-mail at lori.lopez@caloes.ca.gov.

AUTHORITY

Health and Safety Code sections 14867(a) and 14868(a).

REFERENCE

Health and Safety Code sections 14865 through 14868, Penal Code section 409.5, and Public Resources Code section §4165.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Health and Safety Code sections 14867(a) and 14868(a) require the Governor's Office of Emergency Services (Cal OES), in collaboration with the Department of Forestry and Fire Protection (Cal FIRE) and the Board of Directors of the FIRESCOPE Program (FIRESCOPE Board), to develop standards and regulations for private fire prevention resources operating during an active fire incident and for equipment used by private resource operators during an active fire incident. Pursuant to these requirements, and after consultation with Cal FIRE and the

FIRESCOPE Board, Cal OES is proposing to add Chapter 1.1, Private Fire Prevention Resources, sections 2470.1, 2470.2 and 2470.3, to Title 19, Division 2, of the California Code of Regulations.

If adopted, these new sections would establish standards regarding where private resources are permitted to operate, how they interact with the Incident Command, the appearance and use of their equipment, and the activities upon which they should focus.

Anticipated Benefits of the Proposed Regulation

The proposed regulation will accomplish the goals of the authorizing statute by limiting confusion caused by private fire resources operating during active fire incidents and strengthening emergency response efforts that protect the lives and property of Californians. The provisions that establish standards for the appearance and use of the private resources' equipment will improve public safety during an active incident by limiting any confusion between private resource operators and the public fire and emergency personnel operating in an active incident area. Additionally, by establishing standards regarding where private resources are permitted to operate and how they interact and communicate with Incident Command during an active fire incident, the proposed regulations will improve incident management, coordination and response efforts during these dangerous and unpredictable fire incidents.

No Inconsistency or Incompatibility with Existing Regulations

Cal OES has determined that no other state regulations concern the use of privately contracted private fire prevention resources or the use of private fire resource equipment. The proposed regulatory action is therefore neither inconsistent nor incompatible with any other existing state regulations.

LOCAL MANDATE/FISCAL IMPACT

Cal OES has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. Cal OES has also determined that the proposed regulation would not impose any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, that no other nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, and that there will be no costs or savings to any state agency because of the proposed regulatory action. There are also no costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

Cal OES has determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

Cal OES has made an initial determination that the adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation establishes standards for privately contracted fire prevention resources operating during active fire incidents within California. These regulations will allow for improved awareness and control of private resources within existing Incident Command structures, through better communication with and identification of the private resources. Cal OES has determined that compliance is achievable by following existing Incident Command procedures and other currently feasible practices at little to no additional costs to California businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS (Gov. Code section 11346.3(b))

Creation or Elimination of Jobs within the State of California

The proposed regulatory action will not significantly impact the creation or elimination of jobs within the State of California because there is a limited client base that uses private fire prevention resources and compliance is achievable by following existing Incident Command procedures and other currently feasible practices at little to no additional costs. Most Californian's utilize the public firefighting resources provided by Federal, State and Local Governments.

Creation of New Businesses or Elimination of Existing Businesses within the State of California

For the reasons noted above, this proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within the State of California.

The Expansion of Businesses Currently Doing Business within the State

For the reasons noted above, this proposed regulatory action will not impact the expansion of businesses within the State of California.

Benefits of the Proposed Regulation

This proposed regulatory action will benefit the welfare of California residents, worker safety and the state's environment by limiting confusion during active fire incidents and strengthening emergency response efforts that protect the lives and property of Californians.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

Some privately contracted fire prevention resources may incur additional costs to comply with these proposed regulations as a result of upgrading and modifying equipment. However, Cal OES has determined that any additional costs will be minimal since compliance is achievable by following existing Incident Command procedures, best practices and other currently feasible practices at little to no additional costs.

EFFECT ON SMALL BUSINESSES

To the extent a private fire prevention resource is a small business, they may incur additional costs as noted above. However, the proposed regulatory action is unlikely to have a significant adverse impact on small businesses in California because compliance is achievable by following existing Incident Command procedures, best practices and other currently feasible practices at little to no additional costs.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), Cal OES must determine that no reasonable alternative considered by Cal OES, or that has otherwise been identified and brought to the attention of Cal OES, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

Cal OES has prepared and has available for public review an Initial Statement of Reasons for the proposed regulation, all the information upon which the regulation is based, and the text of the proposed regulation. These documents are available at <https://www.caloes.ca.gov/Cal-OES-Divisions/Fire-Rescue> or upon request to the Cal OES contacts identified in this Notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any proposed regulation that is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which Cal OES adopts the resulting regulation. Notice of the comment period on the revised proposed regulation and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by Cal OES during the public comment period, and anyone who requests notification from Cal OES of the availability of such change.

Availability of the Final Statement of Reasons

A copy of the Final Statement of Reasons may be obtained, when it becomes available, at <https://www.caloes.ca.gov/Cal-OES-Divisions/Fire-Rescue> or upon request to the Cal OES contacts identified in this Notice.