



SOUTHERN CALIFORNIA WILDFIRE DISASTER

Determination of Suspension of Requirements for Construction, and Debris and Timber Removal

Introduction

On October 26, 2007, Governor Schwarzenegger issued Executive Order S-13-07 ("EO") directing State agencies to help Southern California Wildfire Disaster victims with cleanup and restoration efforts. Specifically, the EO suspends State statutes and regulations enforced by the California Environmental Protection Agency ("Cal/EPA") and the Resources Agency ("Agencies") that apply to the removal, storage, transportation, and disposal of debris resulting from the disaster ("cleanup activities"), necessary restoration, and related activities to the extent necessary to expedite cleanup activities and restoration work ("State requirements"), while at the same time protecting public health and the environment.

Why do I need a suspension determination?

Violation of State requirements may result in criminal or civil prosecution and severe fines or penalties. You can protect yourself from such action by contacting the Agencies listed below to determine if any State requirements apply to your cleanup activity or restoration work and, if so, applying for a suspension determination. The Agencies' contact information and instructions on how to apply for a suspension determination are described below.

How do I request a suspension determination?

To request a suspension determination, you must complete the attached Application for Determination Regarding Suspension of State Statutes, Rules, Regulations, and Requirements ("suspension determination request") and submit it to either the Resources Agency's Department of Forestry and Fire Protection ("CALFIRE") or Department of Fish and Game ("DFG"), or Cal/EPA, as explained below. After the agency receives your suspension determination request, it will contact you at the telephone number or e-mail address you provide and explain any additional steps you will need to take before it can act on the suspension determination request. You should wait for the agency to contact you before you begin the cleanup activity or restoration work described in the suspension determination request.

To which Agency do I submit my suspension determination request?

Which Agency you should submit your suspension determination request to will depend on your cleanup activity or restoration work, as described below.

CAL/EPA

You should submit your suspension determination request to Cal/EPA (see “Suspension Determination Request Submittals” below):

- If the cleanup activity or restoration work will involve the removal of hazardous waste (e.g., paints, solvents, automotive fluids, pesticides, etc.), mixed in with burn debris that cannot be readily separated;
- If the cleanup activity or restoration work will involve the transportation and disposal of burn debris or other solid waste at any solid waste landfill;
- If the cleanup activity or restoration work will involve the transportation, storage, or disposal of burn debris or other solid waste on your property;
- If the cleanup activity or restoration work will involve moving or disturbing soils in a manner that could increase soil erosion or runoff; and/or
- If the cleanup activity or restoration work will involve the removal of timber or ash in a manner that could cause it to be washed, swept, or blown off of your property.

CALFIRE

You should submit your suspension determination request to the Resources Agency’s CALFIRE (see “Suspension Determination Request Submittals” below):

- If you are removing dead, dying or diseased trees and logs are bartered, traded, or sold (e.g., for commercial purposes); or
- If you are removing healthy green trees that pose an obstruction to debris removal, and logs are bartered, traded, or sold (e.g., for commercial purposes).

DEPARTMENT OF FISH AND GAME

You should submit your suspension determination request to the Resources Agency’s DFG (see “Suspension Determination Request Submittals” below):

- If the cleanup activity or restoration work involves diverting or obstructing the flow of a river, stream, or lake, such as by constructing sediment catch basins;
- If the cleanup activity or restoration work will change the bed, bank, or channel of a river, stream, or lake, such as by removing debris or constructing crossings for equipment;
- If the cleanup activity or restoration work could result in debris, soil, or other material passing into a river, stream, or lake that could harm fish, plants, mammals, or birds and/or their habitat;

- If the cleanup activity or restoration work is likely to affect a sensitive fish, plant, or wildlife species or its habitat, including a species that is fully protected under state law or is listed as threatened or endangered under the California Endangered Species Act; and/or
- If you are doing any activity within an area covered by a Natural Community Conservation Plan (“NCCP”). If you are unsure whether the area is covered by an NCCP, please contact DFG at the telephone number below.

If you are unsure which Agency to send your suspension determination request to, contact the Resources Agency or Cal/EPA.

Suspension Determination Request Submittals

You must submit your suspension determination request to the applicable agency listed below.

Cal/EPA: Matt Bogoshian, Deputy Secretary for Law Enforcement and Counsel
California Environmental Protection Agency
1001 I Street, P.O. Box 2815
Sacramento, California 95812-2815

E-mail address: mbogoshian@calepa.ca.gov
Fax number: (916) 319-7891

CALFIRE: Giny Chandler, Chief Counsel
CALFIRE
1416 Ninth Street
Sacramento, CA 95814

E-mail address: giny.chandler@fire.ca.gov
Fax number: (916) 657-4072

DFG: Michael Mulligan, Deputy Regional Manager
South Coast Region
Department of Fish and Game
4949 Viewridge Avenue
San Diego, CA 92123

E-mail address: mmulligan@dfg.ca.gov
Fax number: (858) 467-4239

If your suspension determination request is approved, the Agency approving your request will contact you and your approval will be provided to the public at www.resources.ca.gov and www.calepa.ca.gov.

What requirements were *not* suspended by the EO?

Federal requirements

Among other things, the EO did not suspend any federal statutes, rules, regulations, or requirements. If you intend to perform emergency repair work that is of a non-life saving nature, please contact the proper federal agencies that might have jurisdiction over the work. A list of federal agencies you might need to contact is provided below.

If your emergency repair work could affect a species listed as threatened or endangered under the federal Endangered Species Act, please contact the nearest regional office of the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service before you proceed:

U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011
(760) 431-9440

U.S. Fish and Wildlife Service
2493 Portola Road #B
Ventura, CA 93003
(805) 644-1766

National Marine Fisheries Service
Southwest Regional Office
501 West Ocean Boulevard
Long Beach, CA 90802
(560) 980-4000

Should you have questions regarding emergency permitting by the Army Corps of Engineers under section 404 of the Clean Water Act, please contact the Corps's Los Angeles District office:

United States Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd Suite 980
Los Angeles, Ca
(213) 452-3908

CALFIRE Requirements

To assist and encourage landowners to meet their responsibilities for removing dead, dying, and diseased trees and clearing fuel breaks on their lands, pursuant to Government Code section 8571, the requirement for submitting notices to CALFIRE under the provisions of section 1038, subdivisions (b) and (c) in title 14 of the California Code of Regulations prior to beginning timber operations for the removal of dead, dying, and diseased trees or the cutting or removal of trees to create fuel breaks, and the limitation on the removal of dead, dying, or diseased trees to ten percent of the average volume per acre were suspended by the Governor's Executive Order. All other provisions of these regulations remain in effect.

To expand the number of contractors available to perform services to property owners for cutting and removing trees for fire safety purposes by authorizing use of tree service contractors licensed to perform tree removal work under Business and Professions Code section 7000 *et seq.*, in addition to timber operators licensed under the Public Resources Code to perform timber operations, pursuant to Government Code section 8571, the provisions of Public Resources Code section 4571, subdivision (a), providing that only licensed timber operators may perform timber operations were suspended by the Governor's Executive Order. A licensed timber operator need not obtain a contractor's license under the Business and Professions Code in order to carry out the work.

How can I obtain more information about State requirements that might apply to my cleanup activity or restoration work and suspension determination requests?

You may obtain more information about State requirements that might apply to your cleanup activity or restoration work and suspension determination requests by visiting the Agencies' web sites at www.resources.ca.gov or www.calepa.ca.gov/disaster/Fire/default.htm, or by contacting any of the following agencies:

Cal/EPA: (916) 322-2893

Office of Emergency Services: (916) 945-8270 (Dennis Castrillo) or (916) 845-8269

CALFIRE: (916) 653-5123

DFG: (858) 467-4212