

Board of Forestry and Fire Protection
Attn: Board Members
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Re: Wildfire Professionals Oppose 2021 State Minimum Fire Safe Regulations Because They Compromise Public Safety

Dear Members of the Board and Staff:

The undersigned wildfire professionals strongly oppose the proposed 2021 Minimum Fire-Safe Regulations based on both our practical application of fire codes and ordinances and our past career experiences. The existing rules and regulations (2020) provide reasonable protection and could use some strengthening (e.g. shorter dead-end road limits), however the proposed changes frankly put lives at risk. **They fail to provide adequate standards or State oversight and enforcement to ensure the safety of firefighters and civilians for firefighting and evacuation.** Compared to the current 2020 regulations dating back to 1991, we believe the proposed regulations are significantly weaker for new development relying on substandard existing road infrastructure. These proposed safety standards are regressive, especially when there is overwhelming evidence that development in California's wildfire-prone areas increases wildfire risk and hazard. **The lack of adequate ingress and egress for residents and first responders significantly contributed to the recent losses of lives and properties in California's wildfires.**

To claim that the road standards are stronger is misleading and untrue. The only place where the proposed regulations are stricter is for newly built roads, where there would be a ½ mile length limitation. Current regulations have a 1-mile length limit to dead-end roads, and require turnarounds every 1320 feet. The proposed regulations eliminate all dead-end road limits for all existing roads, remove most of the turnaround requirements and eliminate length limitation for one-way roads. Most new development occurs on existing roads; hence the proposed regulations are substantially weaker than the current regulations, which apply equally to both existing and new roads. Furthermore, the proposed regulations, except for very large developments, eliminate requirements for curve radius, gate openings, bridges, and allow grade to have no upper limit, with the only qualifier that for grades over 25%, there is a 500-foot length limitation.

We ask for a continued focus on public safety, as was the original intent of the legislation that enacted these fire safe regulations in 1991. It is concerning that the BOF did not conduct a data-supported analysis of existing road and infrastructure capacity to assess potential impacts to wildfire emergency response and evacuation plans, and the increase in ignition sources that will occur by providing both exemptions and exceptions to thousands of parcels. An analysis should include quantifying the potential increase in population and intensity of use in the SRA and VHFHSZ LRA as a result of exempting ADUs and the liberal exception process that will free up parcels to new development, including commercial. The BOF does not acknowledge or integrate the science that consistently shows that new development in wildfire-prone areas increases the risk of wildfire ignitions, nor did it account for an increase in development by weakening the regulations on existing infrastructure. Many communities in the highest fire severity zones were not planned to safely support their current housing, commercial and industrial intensity and density, let alone the proposed development that may be added. A full Environmental Impact Review (EIR) process would greatly inform future regulations designed to improve wildfire safety and protect California residents, first responders and our public trust resources (water, wildlife, air quality, soil quality, etc.). An EIR is appropriate and necessary to support regulations as critical as the proposed minimum fire safe regulations.

Since 1993, the Office of the Attorney General and the BOF (BOF Senior Counsel Jeff Slaton letter to Sonoma County Counsel, October 23, 2020) have confirmed that the regulations apply to existing roads, exactly where most new development occurs in high wildfire prone areas. Safe data-supported road standards are vital on both newly built roads and especially on existing roads that currently do not have the capacity to ensure safe concurrent ingress and egress.

The inconvenience or costs associated with safe road standards does not mitigate or justify the risk to public safety by undermining the intent of the legislation promulgating these regulations. Required road improvement costs within and outside the parcel are customarily born by the developer proposing new subdivisions or commercial enterprises. Additionally, recognized and decidedly essential structure hardening and defensible space efforts do not mitigate evacuation risk; civilians will be evacuated and firefighters and emergency responders will require access on substandard roads, despite structure hardening and defensible space efforts. **The compromises made to the fire safe road standards will facilitate new development and increase the risk for devastating wildfires and loss of life and property as witnessed in 2020.**

The December 22, 2020 draft regulations reflect the improvements that should be made to the current regulations. The draft included the recommendations from a Fire Chiefs Working Group to maintain the current 20-foot road width standard and reduce the maximum permitted length of all dead-end roads to one-half mile. Political pressure influenced the BOF to rewrite and weaken the current standards contrary to the mandate of SB 901 by reducing the 20-foot road width to 14 feet except for very large developments,

and eliminating the dead-end road standard for existing roads. Firefighting equipment 9 feet wide cannot possibly pass 6-foot-wide passenger vehicles on a 14-foot-wide road. Additionally, local jurisdictions are given broad discretion and authority to further reduce the road width standard, thereby further endangering both the public and our emergency responders. Local jurisdictions can make judgments that could approve new commercial and residential development on 6-mile dead-end roads or longer, 10-12 ft wide with no turnarounds, and no requirement to upgrade the subpar road. For example, the local jurisdiction can determine that the "intensity of use" or increase in population density is not significant using any metric they fashion, and conclude no improvements to the existing road system are needed. This ignores the fact that baseline data if analyzed would demonstrate that evacuation and ingress is currently hazardous and adding population will increase those hazards. There is also a loophole to build a new substandard road (not 20 feet wide) for an exempted project, then a year later call it an "existing road" and approve more development that will not require bringing that just built (but now existing) road up to standards. And the BOF is clearly out of the oversight and enforcement business.

Under current regulations since 1991, local jurisdictions can pose standards that exceed State Fire Code Standards, but lack the authority to pose standards that are less than the State Fire Code Standards. **Under the proposal, local jurisdictions will be able to ignore even the minimum standards. The proposed regulations remove any restrictions on development on existing dead-end roads in wildfire-prone areas, which contradicts the BOFs stated purpose to "increase the safety of people and property."** (Initial Statement of Reasons, p. 4.) The proposed regulations even remove the requirement for safe concurrent ingress of fire apparatus and evacuation of civilians on existing roads. Further, the California Fire Code defines access as a road that provides fire apparatus access from a fire station to a facility, building or portion thereof, whereas the proposed regulations would redefine access from the Building to the nearest Collector Road, leaving more discretion to the local jurisdictions. Of note, the National Fire Protection Association develops standards for the wildland urban interface areas, including Standard 1144 that sets a minimum roadway of 12 feet for each lane of travel. **We encourage the BOF to retain the existing standards until further study, review and public input can inform future proposals.**

As wildfire professionals, we rely on the State Fire Protection Codes, regulations and common sense to make fact-based judgments and guide our fire safe planning recommendations. The proposed regulations will serve to undermine our professional work to protect public safety and property. Most counties do not even have requirements for an analysis and assessment of wildfire safety risks and appropriate mitigation to ensure safe development, including scenarios where roads must be ungraded or unsafe development should not occur. Therefore, there are State regulations to set minimum fire safe standards. Local jurisdictions will be provided with loopholes to approve more development and not meet State minimum fire safe standards, which in fact put more people in harm's way. When preparing a wildfire plan, we often ask ourselves: What if our families were in the proposed development during a worst case catastrophic wildfire? **In effect, the BOF, which is obligated to provide adequate public safety regulations, is abdicating its important oversight role with this weakened 2021 proposal. We are then compelled to**

ask: Who will be held liable for the increased hazards, risks and loss of lives and property?

The Director of CAL FIRE should be opposing this undermining of PRC 4290 and further should be proposing to the Board of Forestry and Fire Protection to require the State (Cal Trans) and county agencies responsible for highways and roadways to clear the vegetation back to the easement line, providing a more safe ingress and egress for citizens and first responders. In addition, the roadways may make possible holding lines for fire operations. We should be advancing public safety not undercutting it.

The bottom line is that many of the State Fire Protection Codes that were put into place following lessons learned from on the ground reviews of catastrophic losses of life and property in the 1970's and going forward are presently under consideration for being weakened and watered down by the Governor and the California Board of Forestry, which will lead to firefighter fatalities and increased losses of civilian life and property losses. These codes have stood the test of time and are a few of the reasons we have fewer lives and homes lost to wildfire, particularly in southern California, as well as in newer communities built since the 2003 Fire Year throughout the State. On the heels of a disastrous 2020 Fire Year and a predictably catastrophic 2021 Fire Year, we cannot afford to go backwards. As professionals, we have always supported the BOF and appreciated your leadership in improving fire standards. For the first time ever however, we cannot support your proposal knowing that it reduces safety standards on existing roads and will likely result in the death of firefighters and civilians.

Sincerely,

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cc.

California State Firefighters Association: <https://www.csfa.net/>

California Fire Safe Council: <https://cafiresafecouncil.org/about-us/about/>

Senator Dodd