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CALIFORNIA NATIVE PLANT SOCIETY



Community Clean Water Institute



PRESERVE RURAL SONOMA COUNTY



Las Virgenes Homeowners Federation, Inc.
Post Office Box 353, Agoura Hills, California 91301

The voice and conscience of the Santa Monica Mountains since 1968

January 19, 2022

Board of Forestry and Fire Protection
Attn: Edith Hannigan, Executive Director
Board Members
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PublicComments@BOF.ca.gov
edith.hannigan@bof.ca.gov

Re: Oppose Weakened 2021 Board of Forestry and Fire Protection's State Minimum Fire Safe Road Regulations for State Responsibility Areas and Local Responsibility Areas – Very High Fire Hazard Severity Zones

Dear Ms. Hannigan and Members of the Board:

The undersigned organizations, who represent millions of members and supporters of adequate minimum fire safe regulations across California, oppose the Board of Forestry and Fire Protection's (BOF) December 2021 revised draft regulations. The revised regulations would dramatically weaken fire safe road standards for new construction in fire-prone communities.

Many of our organizations opposed the April 2021 draft regulations. The December 2021 revision fails to address any of the serious concerns raised with the April 2021 draft, and further weakens the regulations, endangering members of the public, firefighters and other first responders.

The December 2021 regulations:

- Completely eliminate dead-end road limitations for all new development on *existing* roads, even for multi-unit residential and commercial development.
- Remove most prior road standards for *existing* roads, including width and grade; it will now be impossible to meet the regulations' intent **“to provide for safe and concurrent fire apparatus access and civilian evacuation.”**
- Remove all weight requirements for existing bridges.
- Provide local jurisdictions with unlimited discretion to modify the regulations through exceptions and loopholes.

Public safety has been the paramount intent of the fire safe regulations for more than thirty years. As a practical matter, this will no longer be the case if the revised regulations are adopted. The December 2021 revised regulations eliminate the requirement for concurrent safe access for fire apparatus and civilian evacuation on existing roads, precisely where new development most often occurs. The December 2021 draft fails to implement the intent of SB 901 (2018), which mandates that BOF *expand* minimum fire safe regulations to include very high fire hazard severity zones (VHFHSZ) in the Local Responsibility Area (LRA). Instead, the BOF radically weakened regulations statewide, and failed to

analyze the massive adverse environmental effects as required by the California Environmental Quality Act (CEQA).

Since 1991 the BOF has required minimum fire safe access standards to apply to *all* new residential, commercial, and industrial development within State Responsibility Areas (SRAs). Among other requirements, the 2020 regulations require roads to be at least 20 feet wide, have adequate surfaces, and avoid steep grades. The length of dead-end roads is limited to one mile. The sole exemptions from the existing 2020 standards are for post-fire rebuilds and roads used exclusively for agriculture, timber harvesting, or mining. The BOF and Office of the Attorney General have confirmed that these regulations apply to all roads including those built before 1991, where the vast majority of new development occurs.

In November 2020, the BOF consulted with a Fire Chiefs Working Group. The Fire Chiefs focused on safety, and suggested shortening the maximum length for dead-end roads from one mile to one-half mile to “provide for greater fire safety than the current standards.” (BOF, Initial Statement of Reasons, p. 28). The Fire Chiefs found that “when completing an on-line search for the maximum length of a Dead-end Road allowed throughout the country, it was difficult to identify any standard that allowed roads longer than ½ mile in length, and most agencies’ maximum allowable lengths were less.” The December 2020 draft of the proposed revisions would have reduced the maximum length of all dead-end roads to one-half mile as the Fire Chiefs recommended, and would have retained the existing 20-foot road width standard. The December 2021 regulations ignore the recommendation to limit dead-end roads to one-half mile and even abandons the current one-mile limitation. Instead, the December 2021 revised regulations would allow development anywhere on existing dead-end roads without respect to their length.

Even for very large developments, the December 2021 revised regulations would only require existing roads to be 14 feet wide (with no shoulder requirements), instead of 20 feet as in the 2020 regulations. If the December 2021 revised draft is approved, these changes could unlock thousands of parcels for residential, commercial, and industrial development on existing roads, but would no longer require that firefighters and fleeing civilians are able to pass one another on narrow roads nor have unobstructed traffic circulation during a wildfire. While the revised 2021 regulations claim to require concurrent ingress and egress, they fail to provide it—a fire apparatus that is 8-9 feet wide cannot possibly pass 6-foot-wide passenger vehicles nor could two 8-9 foot-wide firefighting trucks pass one another on a 14-foot-wide road without shoulders. Although the December 2021 version reinserted a goal of “concurrent ingress and egress”—impossible for the revised regulations to meet as written—it omits the word “safe,” undermining the purpose of the regulations.

Moreover, the inadequate 14-foot standard can be reduced with loophole “exceptions” by local jurisdictions to approve roadways of only 8- to 10-feet in width. There are no provisions to limit the scope of exceptions. For example, the regulations could limit exceptions to 10 percent of the required minimum, or to apply only at roadway pinch points where some geographic physical constraint does not permit the minimum width to be met. This is a recipe for certain disaster for both civilians and firefighters during a wildfire emergency. And under the proposed regulations, local jurisdictions have virtually unfettered discretion to dilute fire safety standards, rendering them unenforceable suggestions. This violates the mandate of Public Resources Code 4290 adopted for the purpose of establishing minimum wildfire protection standards.

The December 2021 regulations do not provide adequate roadway standards, including turnarounds, curves, and grade limitations to ensure the safe operation of fire equipment. The December 2021

regulations have no grade limitation and only stipulate that grades cannot exceed 25 percent for more than 500 feet. Existing regulations ban development projects on unsafe substandard roads in fire-prone areas. But the December 2021 regulations encourage development projects on those very roads.

During a wildfire, a single fallen tree on a dead-end road can trap residents in a conflagration. We sadly witnessed the devastation to human life and property that dire evacuation scenarios caused in the City of Paradise, California, during the 2018 Camp Fire. Ignoring the advice of our Fire Chiefs and Fire Marshals to reduce dead-end road lengths to a maximum of one-half mile and instead removing all dead-end road length limitations makes another such catastrophe far more likely. Growth-inducing impacts could foster economic growth, increased population, and the construction of additional housing. CEQA requires that these impacts be studied to allow decision makers and the public to understand the implications of the decision.

The December 2021 regulations would allow increased development and greater population density in high fire-prone communities and wildlands in both LRAs and SRAs, resulting in significant adverse impacts to public safety and the environment. Loopholes would even allow “new roads” to be considered “existing roads,” thus avoiding all regulations applicable to newly built roads. If current sprawl-inducing land-use practices continue, 640,000 to 1.2 million new homes may be built in the state’s highest wildfire-risk areas by 2050 (Mann et al. 2014). Instead, regulations should encourage policies to focus development of increased affordable housing near city centers.

Abundant scientific evidence shows that when development encroaches into fire hazard severity zones, the probability of large conflagrations dramatically increases. Human sources such as power lines, car sparks, cigarettes, and electrical equipment caused nearly all contemporary wildfires in California (Radeloff et al. 2018, Syphard et al. 2007; Balch et al. 2017). Permitting new development in high fire-risk areas will increase ignitions and places more people in danger. Since 2015, almost 200 people in California have been killed in wildfires, more than 50,000 structures have burned, hundreds of thousands of residents have been forced to evacuate their homes, millions have endured power outages, and tens of millions have been exposed to unhealthy levels of air pollution.

Wildfire impacts disproportionately affect vulnerable communities with less capacity to adapt, respond, and recover. Low-income and minority communities, especially Native American, Black, Latino and Southeast Asian communities, are the most marginalized when wildfires occur, in part because they have fewer resources to safely evacuate, to buy fire insurance, to implement defensible space around their homes, or to rebuild. Vulnerable communities also have less access to disaster relief during recovery (Fothergill and Peak 2004; Morris 2018; Harnett 2018; Davies 2018; Richards 2019). Health impacts from wildfires, particularly from increased air pollution due to fine particulates (PM2.5) in smoke, also disproportionately affect vulnerable and low-income communities, people of color, children, the elderly, and people with pre-existing medical conditions (Künzli et al. 2006; Delfino et al. 2009; Reid et al. 2016; Hutchinson et al. 2018; Jones et al. 2020).

At an August 18, 2020 workshop, the BOF indicated the proposal’s potentially significant environmental impacts would be reviewed using an Environmental Impact Report (EIR), but has made no mention of an environmental process since then. The BOF must prepare an EIR to analyze the effects of increased wildfire risks and sprawl, and the growth-inducing effects of the proposed regulations. The BOF appears poised to declare that either the draft regulations are not a CEQA project or they are categorically exempt from review, but it has yet to provide any legal basis to support evading environmental review through either tactic.

No exemption exists to avoid environmental review here. The BOF must prepare a comprehensive EIR to analyze the proposal's detrimental effects to public safety, biological resources (including California's already threatened native flora and fauna), climate resilience, vulnerable populations, emergency access, evacuation plans, and cumulative impacts.

The December 2021 draft, if approved, would have devastating public safety and environmental consequences as they roll back decades of sensible safety standards. We urge the BOF to ensure the proposed regulations are revised to meet the public safety intent of their enabling legislation, and undertake an appropriately thorough environmental review of the many obvious significant impacts they would cause if adopted as currently proposed.

Thank you for your consideration of these comments.

Sincerely,

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