

Background and Summary of Issues on Board of Forestry  
Fire Safe Regulations Revisions  
January 26, 2021

**Background on Board of Forestry and Fire Protection Fire Safe Regulations**

At the direction of the legislature, the Board of Forestry (BOF) issued Fire Safe Regulations in 1991 that apply to new development on all lands in the State Responsibility Area (SRA), most of unincorporated areas where CalFire is responsible for fighting wildfires (Title 14, Division 1.5, Chapter 7, Subchapter 2; authorized by PRC 4290). The intent is to ensure that new development on all roads, public or private, as stated in Article 2 ***“shall provide for safe access for emergency wildfire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency consistent with 14 CCR §§ 1273.00 through 1273.09”***.

The SRA Regulations provide the minimum fire safe standards for all new residential, commercial and industrial development in the SRA, including roads, water supply, signage and fuel breaks and greenbelts. Critical to protection of lives and structures are road standards that include:

- Road surface
- Two-way roads are 20 ft wide
- One-way roads (12 ft wide) are no longer than 1/2 mile and must connect to two-way roads at each end
- Dead-end roads are no longer than 800 ft to 1 mile (depending on parcel size served) and must have a turnaround at the end
- Regulations for gates and
- Grade is no more than 16%, up to 20% for short distances with mitigations.

Although some counties have questioned the applicability of the regulations to pre-1991 roads, the Attorney General’s office has unequivocally confirmed on multiple occasions beginning in 1993 that the regulations apply to new development on existing roads. These regulations have been in effect since 1991 and apply to both existing as well as new roads for all new development in the SRA, but do not require that roads be upgraded for existing development. They allow fire victims to rebuild their homes without upgrading the access roads. Roads used exclusively for agriculture, mining, or timber harvesting and management are exempted. Accessory dwelling units (ADUs) are temporarily exempted in emergency regulations in July 2020, and are proposed to be permanently exempted.

At the direction of the legislature per SB 901 (Senator Dodd, 2018), BOF is in the process of updating these regulations to meet new state law that now will extend them to Very High Fire Hazard Severity Zones (VHFHSZ) in the Local Responsibility Area (LRA), protect undeveloped ridgelines as well as provide more protections with fuel breaks and greenbelts. The BOF’s aggressive deadline to adopt new fire safe regulations is driven by a legislative July 2021 date when the regs will apply to the LRA VHFHSZ.

**Concerns with the Ongoing BOF Rulemaking**

BOF staff has hired qualified wildfire planning and engineering consultants to provide expertise in this process. Together they have met extensively with fire chiefs across the state to understand the issues and what standards are needed to ensure safety of civilians during evacuation and unobstructed fire fighter and equipment access during a wildfire emergency. BOF issued a draft of the revisions on December 1 and a revised draft on December 22, 2020 with added clarity and enhanced protections for civilians, firefighters and structures. The December 22 draft regulations would continue to apply to all new residential and commercial, and industrial development or expansion, as do the current regulations. Ventura County and others have raised the issue of a need to address “cumulative effects” for any exceptions provided to housing, since consecutive

Background and Summary of Issues on Board of Forestry  
Fire Safe Regulations Revisions  
January 26, 2021

exceptions could result in unintended consequences of increased population density at the expense of public safety. While the December 22 draft needs refinements, it reflects consultation with fire chiefs across the state, and there are no loopholes for new subdivisions or larger scale housing, or for commercial or industrial development.

Our stakeholders continue to be concerned about protecting the clear intent of the regulations. Some influential groups such as the building industry and RCRC (Rural County Representatives of California) have been heavily lobbying to weaken the regulations for both housing developments as well as commercial and industrial developments. RCRC's stated mission includes "*to improve the ability of small, rural California county government to provide services by reducing the burden of state and federal mandates*". RCRC has proposed three tiers for regulations: 1) eliminate all road requirements for new housing developments of less than 15 homes or commercial/industrial developments or expansion of less than 27,000 sq ft; 2) allow very limited regulation, but with no minimum road width, grade or requirements for turnouts, to apply to housing developments of 15-99 homes, or new commercial developments or expansions of 27,001-179,999 sq ft, and 3) only have the full regulations apply to housing developments of 100 or more homes, or commercial or industrial developments or expansions of 180,000 sq ft or more. This would amount to a stripping of the current fire safe regulations, and would allow new or expanded large housing, commercial and industrial developments on hazardous subpar, narrow roads. It would exacerbate existing hazardous conditions and create evacuation nightmares, jeopardizing the safety of civilians and firefighters alike.

The BOF has held three workshops with the public and the Board members (December 22, 2020 and January 13 and 27, 2021, and a workshop likely scheduled February 9). RCRC has been very aggressive in presenting its intention to reduce state standards and leave all decisions to local jurisdictions. RCRC provided a revised draft of the BOF regulations on December 30 and many of its proposals for reducing the level of regulations were included in the options presented by BOF on January 13. Stakeholders were shocked to see RCRC's suggestions for loopholes for commercial and industrial "access thresholds" on the BOF's staff power point at the January 13<sup>th</sup> workshop. It appears RCRC is lobbying for increasing the commercial tax base at the expense of public safety.

In the near future the BOF must determine an appropriate "access threshold" for housing and whether to reduce regulations only for individual single-family residences, or for lot splitting, new subdivisions or larger scale housing developments. Shouldn't we have accurate housing data to determine if there is an impact to affordable housing, especially after we know that post-fire rebuilds are not affected, ADUs were exempted in 2020, duplex exemptions are on the horizon with expected approval of SB 9, and the likelihood that exceptions will be made to allow single family residences on approved parcels? Smart housing development policy advocates that affordable housing needs can be met within existing and voter-approved Urban Growth Boundaries (UGBs), Urban Service Areas (USAs) and Priority Development Areas (PDAs) for new and/or higher density residential housing. There would appear to be ample room within existing cities and unincorporated communities to meet housing and population needs without compromising evacuation safety due to subpar roads.

Some BOF members have indicated that reduced regulations may be appropriate for individuals building their single family residence on an existing legal parcels. We understand their concern and also could support a lower level of regulation for such individuals building their family home on land they already own on a subpar road. But that is completely different from allowing development of multiple homes by a developer on unsafe roads, or from allowing commercial or industrial operations to build or expand on subpar roads.

Background and Summary of Issues on Board of Forestry  
Fire Safe Regulations Revisions  
January 26, 2021

In an ideal world, despite significant pressure to relax the regulations for housing, the regulations should be based on data supported analysis of fire risk. Unfortunately, while we have the technology, there is not the time nor budget to perform statewide analyses on current evacuation risks. However, existing evacuation analyses that have been conducted in high fire risk areas have shown that the current hazardous conditions on subpar roads place lives and structures at an increased risk. The BOF must determine an appropriate threshold for housing, and we do not endorse reducing regulations for any housing other than the individual home builders mentioned above. We believe the state can achieve its goals for housing, especially housing that is affordable, without exposing lives and property to unnecessary wildfire risk.

**Actions**

**Request Meeting with BOF Staff ASAP:**

At the January 13 workshop, the board requested that BOF staff meet with additional outside organizations to obtain more public input. Stakeholder organizations are encouraged to schedule a meeting with BOF staff (Edith Hannigan, Land Use Planner, and her boss, Matt Diaz) to occur in the near term (i.e., during the week of February 1), as BOF is on a tight timeline to finalize these regulations.

**Send Comment Letters to BOF Staff, Board members and copy Natural Resources Agency:**

Edith Hannigan: [edith.hannigan@bof.ca.gov](mailto:edith.hannigan@bof.ca.gov)

Matt Dias: [Matt.Dias@bof.ca.gov](mailto:Matt.Dias@bof.ca.gov)

BOF Board members: [PublicComments@bof.ca.gov](mailto:PublicComments@bof.ca.gov)

Jessica Morse, Deputy Secretary, Forest Research Management, Natural Resources Agency:

[Jessica.Morse@resources.ca.gov](mailto:Jessica.Morse@resources.ca.gov)

Wade Crowfoot, Secretary of Natural Resources Agency: [secretary@resources.ca.gov](mailto:secretary@resources.ca.gov)

**Significant points include:**

- 1) Wildfires are unprecedented, increasing in intensity and frequency. It would be disastrous to succumb to pressures from those wanting deregulation, or wanting to leave regulation to local jurisdictions.
- 2) The fire safe regulations need to apply to all new commercial or industrial development or expansion. There should be no weakening of regulations for businesses. The cost of doing business is either to upgrade a subpar road, or select a different location. Commercial or industrial operations add significant vehicular and people traffic, as well as increased fire risk.
- 3) There should be no lessening of regulations or loopholes for new housing developments and subdivisions. We need to ensure safe concurrent evacuation and fire equipment ingress.
- 4) Provide examples of evacuation scenarios, e.g. in the Woolsey Fire it took 4 hours to evacuate from structure to highway, a trip that normally took 30 minutes.
- 5) Road requirements can be relaxed for single parcel owners who wish to build their home on their own individual parcel, e.g., allowing their home construction on a one-lane (12 ft wide) roads with additional turnouts, allowing individual new homes on dead-end roads longer than one mile. This becomes problematic however, if cumulative effects are not considered.
- 6) The BOF regulations should define objective standards for "Alternative Means of Compliance" for approving any "Exceptions" when necessitated by local topography. Board Members supported this concept.
- 7) Local Jurisdictions need oversight if they wish to replace some of the BOF regulations with their own to ensure that public safety needs are met.