

**From:** Deborah Eppstein <deppstein@gmail.com>

**Subject:** Napa Road Standards and State Fire Safe Regulations

**Date:** November 17, 2022 at 9:46:40 PM PST

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Dear Mr. Ryan and Napa County Supervisors,

Over the last four years I have been involved working on fire safe regulations with many public agencies and organizations including the Board of Forestry (BOF), CalFire, Natural Resources Agency, Wildfire Professionals, State Senators, S and N California groups and Sonoma County. I am also a Director of State Alliance for Firesafe Road Regulations (SAFRR), a non-profit organization fostering safe road regulations for new development.

I appreciate your challenges in enforcing the state road regulations to best promote fire safety for new development. However, considering your proposed interpretation of the state Fire Safe Regulations (FSR), I wish to point out some facts where your proposal violates the state FSR and jeopardizes public safety.

You have previously mentioned that you are using the interpretation of Access in Sections 12 and 13 from your 2019 certified NCRSS. As Mr. Ryan confirmed, Napa's prior certification is no longer valid as any time an ordinance is updated as required for updated state regs, the prior certification is no longer valid (§ 1270.04(d) of 2020 state regs). It appears that you are relying on what you believe was previously certified to justify your new interpretation. Not only is that logic flawed since prior certifications are no longer valid, but it is also further flawed as Sections 12 and 13 in fact do not limit the scope of the Napa regulations to only within the parcel as you assert; rather they merely specify the applicability of the NCRSS to the private roads and driveways within a parcel, in addition to other requirements in the NCRSS. Furthermore, BOF added language in the new FSR (§ 1270.05) spelling out that local ordinances must fully comply with the corresponding minimum standards in the state regs, and that no exemptions could be applied that are not in the state regs. BOF's actions confirmed that relying on interpretations from prior certified ordinances is not valid in its response to Sonoma County ([letter attached](#)), whose 2017 ordinance exempted existing pre-1991 roads (although it did state that more stringent regulations would trump). BOF concluded in 2020 that exempting existing roads was clearly less stringent than the state FSR; Sonoma County then withdrew its certification request. Likewise, your proposal to

effectively exempt public roads from the regulations by limiting the definition of 'Access' to private roads within a parcel violates the plain language of the state regulations in multiple places. The state FSR are clear that Roads include Public and Private Roads. No interpretation is required. You did not give a clear answer when I asked that question today. Can you please respond?

As was discussed extensively during the BOF workshops (and Sonoma County certification discussions, [letter attached](#)), the state FSR apply to both existing and new roads. BOF also discussed this in their August Final Statement of Reasons, pp 5-7, including reference to letters from the state Attorney General's office. It appears that Napa is following the Rural Counties Representatives of California (RCRC) proposal of limiting the FSR to within the development perimeter. This is a flawed interpretation, as it takes the definition of 'defensible space' provided by BOF and which is only used in the FSR for where exceptions apply (i.e., exceptions can be applied on private roads within a development perimeter) and instead incorrectly applies it to limiting the scope. This limitation contradicts the scope of the state FSR and the language in the body of the regulations. For example, Article 2 gives extensive road specifications to support its requirement of safe concurrent fire engine ingress and civilian evacuation. Saying the FSR only require safe evacuation to the point where a private driveway meets the public road is simply ludicrous. Saying that the FSR only require fire apparatus access on the private parcel and not on the roads leading to the parcels is also preposterous.

There was a fair amount of discussion of the Exception process today, with concerns over arbitrary application. Exceptions can only be granted under limited conditions (§ 1270.06 of the current (2020) state regs) and then only within the defensible space within the development parcel. Exceptions must provide for the Same Practical Effect as the state FSR, which includes concurrent fire apparatus ingress and civilian evacuation, and unobstructed traffic circulation (state FSR, § 1273.00), consistent with the technical details specified in Article 2 (i.e., 20 ft wide roads, 16% grades, dead-end road length limits, bridge weight limits, etc). Exceptions are not intended for obstacles spanning the entire roads, but rather for specific individual obstacles- e.g., heritage oaks, recorded historical sites mentioned in the Napa regs. The Attorney General's office has also written that Exceptions cannot be applied to overcome the dead-end road length limitations which are important to safe evacuation and fire apparatus access. Broadly granting Exceptions that don't comply with the intent or requirements of the state FSR violates PRC 4290.

If Napa County wishes to follow its own interpretation of the state FSR as discussed today, you may wish to ask the Attorney General's Office for an opinion. Ignoring requirements of state laws violates any oath by county officials to uphold the Constitution of the State of California.

Thank you for your consideration of these comments.

Sincerely,  
Deborah A. Eppstein, PhD

Director  
State Alliance for Firesafe Road Regulations (SAFRR)