

P.O. Box 27404
Los Angeles, CA 90027
www.hillsidefederation.org



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Board of Forestry Board Members and Staff
State Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460
PublicComments@bof.ca.gov

February 23, 2021

Re: Hillside Federation Comments on February 8, 2021 Draft of State Minimum Fire Safe Regulations

Dear Board Members and Staff,

The Federation of Hillside and Canyon Associations, Inc. (“The Federation”) submits these comments in response to the February 8, 2021 draft of the State Minimum Fire Safe Regulations (“Draft Regulations”) currently being considered by the Board of Forestry (“BOF”). The Federation supports option #2 as outlined below with a threshold for single family residences under 10,000 square feet to be the only properties excepted from the regulations.

The Federation, founded in 1952, represents 46 homeowner and resident associations with approximately 250,000 constituents spanning the Santa Monica Mountains. The Federation’s mission includes protecting the property and quality of life of the residents of the Santa Monica Mountains and other hillside areas of Los Angeles and its environs, and encouraging and promoting those policies and programs which will best preserve the natural topography and wildlife of the mountains and hillsides for the benefit of all the people of Los Angeles.

Our members live in the Local Responsibility Area (“LRA”) in Very High Fire Hazard Severity Zones (“VHFHSZ”) and only recently learned about the changing BOF regulations. We regret that we were not a part of the public process earlier, however Edith Hannigan was able to make a presentation at our February Board Meeting, which we appreciated.

Following Ms. Hannigan’s presentation and after reviewing the documents she provided, the Federation has grave concerns about the February 2021 Draft Regulations, which clearly undermine the current fire safe regulations of July 2020.

Intent removed from Article 2 §1273.00

In our research to better understand the fire safe regulation, the legislative mandates and PRC 4290 and 4291, we recognize the importance of the stated “Intent” since 1991 and in the current July 2020 regulations. The BOF’s Title 14, Division 1.5, Chapter 7, Subchapter 2, that is authorized by Public Resources Code 4290: The intent is to ensure fire safety standards apply to all new residential, commercial and industrial development in the State Responsibility Area (SRA) after January 1, 1991, on all roads,

public or private. As stated in current BOF regulations in Article 2, the Intent is “*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.*”

We have also noted the state Attorney General has confirmed that the regulations apply to new development on both existing and new roads, in the 1993 Attorney General’s Opinion and other letters from the Attorney General’s office pertaining to CEQA.

Therefore, to see the word “Intent” removed from Article 2 §1273.00 in the February 8, 2021 draft (page 28) is alarming and we respectfully ask that the Board Members require that the “Intent” be reinstated into the regulations.

Development Thresholds for Limiting the Application of Regulations

In conflict with the Intent and the Attorney General’s opinion and letters, the February 2021 draft fundamentally excludes existing roads from most regulation. The draft regulations no longer require safe concurrent access and egress on existing roads, through the addition of development “thresholds” and a far lesser set of regulations for existing roads.

We note that the standards for existing roads for “**above the threshold**” development were reduced from a 20 ft road width and dead-end road 1-mile limit (July 2020 regulations) to now allowing a minimum width of 14 ft with normal turnouts every 400 ft, and no dead-end road limitation, unless in the VHFHSZ then a 1-mile limit. The July 2020 regulations limit grade to 16%, up to 20% grade for short distances with mitigation. Whereas, the current draft regulations have no 16% grade requirement, and grade is allowed to go over 20% with no upper limit, for a to-be-determined (“TBD”) distance. Further, the standards for vertical clearance and for turning radius have been removed completely in the current draft regulations.

Moreover, the standards for existing roads for “**below the threshold**” development were drastically reduced when compared with the July 2020 regulations. The February 8, 2021 BOF staff memo Table Summary of Scope and Applicability (page 6) shows “Existing road less than 14 feet - cannot build on these roads.” This is also repeated for ADUs and Wildfire rebuilds (page 5). When asked at the recent Federation board meeting, Edith Hannigan unequivocally clarified that new development on all existing roads would be held to a minimum 14 ft width standard. However, in the actual draft a standard proposed for narrow existing roads (Built Roads) “**below the threshold**” (§ 1273.05.02 page 41), is for “one (1) at least fourteen (14) foot Traffic Lane for a distance of at least twenty-two (22) feet for a distance of XX feet.” Therefore, this standard does not address a minimum road width and will not provide circumstances for safe concurrent evacuation egress and emergency responder access. This would allow new development in the LRA on narrow 8-12 ft wide roads with occasional widening to 14 ft for only 22 ft long that does not even meet the current turnout standards. We ask that the BOF clarify this inconsistency between the draft regulations and the staff memo.

The complete road requirements in the July 2020 regulations (20 ft width, dead end road limit of 1-mile, grade limits, curve radius and vertical clearance) would now only apply to newly built roads, and restricted to only within a parcel (§1273.00 page 28). This is a significant deviation from the regulations and will weaken safety standards for both the State Responsibility Area (“SRA”) and Local Responsibility Area (“LRA”).

The BOF staff has asked for input on the threshold Options presented on pages 14-15 of the draft regulations 1270.03 Scope and we offer the following:

Option 1. Tentative and Final Map (5 or more parcels). We do not support tentative map option as a criterion, especially because commercial and industrial parcels are allowed. Intensified housing subdivisions, commercial and industrial development significantly increase population density and fire risk and do not belong in the LRA VHFHSZ on substandard roadways.

Option 2. We would support Option 2 where the threshold for new residential construction is limited to one new single-family residence (“SFR”) (understanding that ADUs are exempted) not to exceed 10,000 sq. ft., and no thresholds for commercial or industrial development. Ms. Hannigan’s power point and statements to the Hillside Federation indicated “there are competing state priorities to increase housing production while building safely.” She did not include new commercial or industrial development, and we do not recognize such intensive development in fire-prone communities to be a priority. Even 20 ft wide roads in the LRA are not sufficient to ensure safe evacuation egress and ingress during wildfire events.

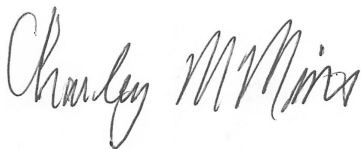
Option 3. This option requires clarification. If the intention is to add these criteria of access to new building construction as in the current July 2020 regulations, we support this option, but not if this option is intended to limit the scope of access requirements to the 4 things it lists; “*Where Building Construction meets the following criteria, the provisions of this Subchapter shall further apply to any Road or Road Structure that provides Access to the Building Construction: affected activities include but are not limited to: (1) permitting or approval of new parcels excluding lot line adjustments; (2) application for a change in zoning building permit for new building construction; (3) application for a change in use permit; and (4) road construction.*” The July 2020 regulation stated, “**but are not limited to.**” This phrase has been deleted in the February 2021 draft and causes confusion as to what is meant in this section.

California Environmental Quality Act

As currently drafted, the proposed thresholds in the regulations will have significant environmental impacts to community safety and wildfire. The revised standards will increase intensity of use in high fire risk areas with substandard road infrastructure. We have seen no evidence that the BOF has analyzed or disclosed potentially significant impacts. We believe the BOF has a duty to conduct a thorough review of the environmental impacts under the California Environmental Quality Act (“CEQA”). The draft regulations undermine the existing July 2020 regulations and the BOF should prepare an Environmental Impact Report (“EIR”). The only way that the Project may be exempt from CEQA is if the regulations enhance – rather than undermine – the existing regulations in all respects.

Thank you for your thoughtful consideration and we look forward to working with the board to further revise the regulations to provide the maximum protection to our members and the general public.

Sincerely,

A handwritten signature in cursive script that reads "Charley Mims".

Charley Mims, President