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February 8, 2021

To: Board Members

From: Edith Hannigan, Land Use Planning Policy Manager

Re: Amending 14 CCR §§ 1270.00-1276.04, “State Minimum Fire Safe Regulations”

Public Comments and Workshops

Stakeholder Engagement

Since a draft of proposed changes to the Fire Safe Regulations was released on December 1, 2020, Board staff and the Wildfire Planning International team (WPI) have been engaging with stakeholders and Board members to hear feedback on the proposed changes, examine and vet proposals, and develop a new draft with changes addressing those concerns. Many people spent a significant amount of time closely reading the proposed text and offering constructive feedback, for which the team is deeply appreciative.

The February 8 draft of the State Minimum Fire Safe Regulations is the result of a careful review of the comments received via letter and email, three public workshops, and numerous smaller stakeholder meetings or phone calls. This draft resolves a number of questions and concerns raised by stakeholders, and specifies a few places where further input from stakeholders and Board members is requested.

February 24 Workshop

The Board will be having a workshop on Wednesday, February 24, at 8:30am to discuss the February 8 draft. We are requesting that any comment letters arrive to Board staff by February 17, so staff, WPI, and Board members can review the letters in preparation for the workshop. The notice for the February 24 workshop was included when the February 8 draft was emailed to stakeholders, and the registration link is also available here [\(link\)](#).¹

February 8 Draft Overview

1. Within the rule plead

Heading styles have been used in this memo, attachments, and rule plead so the reader can turn on the “Navigation Pane” and quickly find specific sections of the draft rule. Where a section is cross-referenced in the rule text, a hyperlink has been added so the reader can click on the cross-reference and be brought to the specific section mentioned. In addition, areas where we are looking for additional proposals or feedback are in yellow highlight and noted with a “Comment” box. Hyperlinks are also available within this memo and Attachments 1, 2, and 3.

2. Attachments

This memo and several attachments were created to assist stakeholders navigate the draft rule and understand the intent of the proposed changes. [Attachment 1, Summary of Scope and Applicability](#), provides a guide to which situations may require existing roads to meet a

¹ <https://attendee.gotowebinar.com/register/5234688411149976077>

specified standard, or when construction may proceed on an existing road. [Attachment 2, Description of Sections](#), provides a basic summary of each section in the rule plead, and adds notes where we are specifically soliciting feedback on all or part of a section.

Specific Feedback Requested from Board Members & Stakeholders

1. Thresholds regarding ADU and Wildfire Rebuild Exemptions

In the spring of 2020, the Board addressed the applicability of the State Minimum Fire Safe Regulations to Accessory Dwelling Units (ADUs) and the rebuilding of structures lost due to wildfire by using the emergency rulemaking process to write exemptions for both types of construction. The February 8 draft proposes to keep those exemptions in place, with some modifications to the wildfire rebuilding exemption. See § 1270.03.01 Exemptions, subsection (b), pages 16-17.

- Question: Is the allowable 20% increase appropriate?

While the Board is sensitive to the intersecting, and at times conflicting, policy issues of increasing housing production and improving wildfire safety, it is worth contemplating if there is a point at which a road providing access to an ADU or a road within a wildfire perimeter is of such substandard quality that to build, or rebuild, along it would be creating or replicating an excessively hazardous situation. Staff would like to propose that where an existing road cannot provide a 14 foot wide traffic lane for at least 22 feet of length at a certain frequency or interval, the exemptions for ADUs and wildfire rebuilds are not applicable.

- Question: is this limitation on ADUs and wildfire rebuilds appropriate?

2. Thresholds for Limiting Developing on Existing Roads

Staff would like to propose that where an existing road cannot provide a 14 foot wide traffic lane for at least 22 feet of length at a certain frequency or interval, no commercial, industrial or residential development be allowed until the road meets the minimum standards. The proposed 14 foot traffic lane width is the minimum required width for one-way roads and driveways, and the 22 feet of length is the minimum required length for turnouts under these regulations. Our proposal (see § 1273.05.02 Built Roads, subsection (a), on page 41) does not yet specify how frequently the traffic lane must be 14 feet wide.

Questions:

- Is this threshold for road width appropriate?
- How frequently should this width be required – every few hundred feet, every quarter mile, every half mile, etc?

3. Thresholds regarding existing roads

Over the last two months, to the Board and stakeholders asked for these regulations to establish a threshold for when a project should be required to address the safety of existing roads leading to the project. The offsite road requirements are in addition to complying with the Fire Safe Regulations within the project boundary.

The February 8 draft requires all Building Construction subject to these regulations to comply with all applicable requirements within the Perimeter of the proposed project (see § 1270.03(b) on page 14). Public comments, while generally supportive of thresholds for the need to improve existing roads, offered several different options for how those thresholds might be set or calculated. We have proposed three different options for stakeholders to

contemplate. These options are not mutually exclusive; they could be combined in a final draft. Please see the options in § 1270.03(c) on pages 14-15 in yellow highlight.

Questions:

- Which of these options are preferable? Is there another option we have not contemplated here, and how or why is it superior to these options?
- What thresholds might be appropriate for Option 2?

The requirements for a project that must ensure existing roads providing access to the project meet the minimum requirements are in § 1273.05.02 Built Roads, page 41-43. This section includes criteria for when a development can be allowed on an existing road and when an existing road is unsafe to the degree that construction cannot occur along it unless the road is brought up to the minimum standard(s) in § 1273.05.02 Built Roads.

Questions:

- Are these thresholds reasonable?
- Any additional safety criteria that should be considered here?

4. “Areas of Refuge”

As an alternative to requiring existing roads meet a certain engineering or construction standard, building construction could instead provide for an “area of refuge” where people could shelter safely at a site at or near their location. This alternative is not contemplated in the February 8 rule plead, but draft language for such an idea can be found in [Attachment 3, Areas of Refuge Proposal](#).

- Question: Should this concept be incorporated into these regulations?

Reminder regarding the emergency regulations

The emergency regulations amending sections 1270.02, 1270.04, 1270.05, and 1271.00 were approved by the Office of Administrative Law and made effective on July 27, 2020. Two recent executive orders, N-40-20 and N-66-20, have extended the usual timelines regarding the effectiveness of emergency regulations; these regulations will be in effect for 300 days, until May 26, 2021. The last day to submit re-adoption paperwork to OAL is May 14, 2021, so action must be taken at the April 7, 2021, Board meeting to continue the effectiveness of these regulations until permanent rules can be in place.

Executive Orders N-40-20 and N-66-20 also extend the timelines for emergency re-adoptions – the Board can readopt these emergency regulations twice, as usual, but each re-adoption will be in effect for 270 days (usually 90). Upon a first re-adoption of these emergency regulations at the Board’s April 7, 2021, meeting, these regulations will be in effect through February 2022.

Thank you.

Enclosures

[Attachment 1. Summary of Scope and Applicability](#)

[Attachment 2. Description of Sections](#)

[Attachment 3. Areas of Refuge Proposal](#)

Attachment 4. State Minimum Fire Safe Regulations Rule Plead – February 8, 2021, Draft (transmitted as a separate document)

Attachment 1. Summary of Scope and Applicability of the February 8th Draft of the State Minimum Fire Safe Regulations

Topic	Intention	Section
ADUs	<ul style="list-style-type: none"> ● Do not trigger regulations ● Not allowed if road condition is poor or less than 14 feet 	<ul style="list-style-type: none"> ● § 1270.03.01(c) ● § 1273.05.02(a)
Wildfire rebuilds	<ul style="list-style-type: none"> ● Do not trigger regulations ● Allowed to increase square footage 20% as long as setbacks maintained ● Not allowed if road condition is poor or less than 14 feet 	<ul style="list-style-type: none"> ● § 1270.03.01(b) ● § 1270.03.01(b)(1-4) ● § 1273.05.02(a)
Applicability to existing roads	<p>Current draft presents three options for where rules apply to existing roads:</p> <ol style="list-style-type: none"> 1. Tentative Map 2. Set a threshold of a number of units for residential projects or a percent increase for industrial/commercial projects 3. Modify current language 	<ul style="list-style-type: none"> ● § 1270.03(c)
Existing dead end roads	<ul style="list-style-type: none"> ● Requirements only applies to developments over threshold determined in § 1270.03(c) ● No development allowed in the VHFHSZ SRA² or VHFHSZ LRA³ if the dead end road is over one mile (unless the project includes construction of a road that will shorten the length of the dead end road) 	<ul style="list-style-type: none"> ● § 1270.03(c) ● § 1273.05.02(c)
Existing roads between 14-20 feet (width of the road)	<ul style="list-style-type: none"> ● Requirements only applies to developments over threshold determined in § 1270.03(c) ● If have sufficient road surface; turnouts; and/or enough drivable surface next to road to reach 20 feet, treated as 20 foot road 	<ul style="list-style-type: none"> ● § 1270.03(c) ● § 1273.0502(d)

² Areas in the State Responsibility Area mapped as very high fire hazard severity zone

³ Areas in the Local Responsibility Area mapped as very high fire hazard severity zone

Topic	Intention	Section
Existing roads less than 14 feet	<ul style="list-style-type: none"> ● Cannot build on these roads, including otherwise allowable exemptions 	<ul style="list-style-type: none"> ● § 1270.03.02(a)
Existing roads with excessive steepness	<ul style="list-style-type: none"> ● Cannot build on road with over 20% grade over certain distance, including otherwise allowable exemptions 	<ul style="list-style-type: none"> ● § 1270.05.02(b)
Development over time/Aggregate risk	<ul style="list-style-type: none"> ● Create a threshold where roads have to be upgraded when multiple smaller developments that do not trigger road upgrades are built ● Proposed metric is daily estimated trips 	<ul style="list-style-type: none"> ● § 1270.03.03
Ridgelines	<ul style="list-style-type: none"> ● Define ridgelines ● Allow locals to define strategic ridgelines that are important for fire safety ● Limit development on strategic ridgelines 	<ul style="list-style-type: none"> ● § 1270.01 ● § 1276.04
Area of refuge	<ul style="list-style-type: none"> ● Goal is to provide flexibility to counties and cities in siting development ● As Safety Elements identify areas of refuge, the regulations would allow development without existing road upgrades as local residents could shelter locally 	Memo-conceptual proposal
Oversight	<ul style="list-style-type: none"> ● Municipalities may: <ul style="list-style-type: none"> ○ Notify BOF when starting ordinance updating ○ Submit draft ordinance for BOF review to determine if it equals or exceeds minimum standards ○ Submit final draft ordinance 90 days before it is first considered by approving authority ● Voluntary 	<ul style="list-style-type: none"> ● § 1270.05

Attachment 2. Description of Sections in the February 8th Draft of the State Minimum Fire Safe Regulations

Article 1. Administration

Section Number	Section Title	Brief Description	Notes
1270.00	Title	Revised to reflect that these standards are not longer applicable to only the SRA	
1270.01	Definitions	This section was moved from § 1271.00.	Changes from existing definitions are in strikeout / <u>underline</u> , but the format of the 45-day noticed text will have this all in <u>underline</u> , pursuant to the APA.
1270.02	Purpose	Revised to reflect defined terms, new scope of the regulations, and new standards required by the regulations	
1270.03	Scope	1270.03(a) is existing language revised to reflect new sections, defined terms, etc. 1270.03(b) requires all projects to meet all requirements within the perimeter of the project 1270.03(c) sets a threshold for projects where existing roads leading to the project from outside the perimeter must meet the minimums	Specifically soliciting feedback on the options presented in § 1270.03(b) in yellow highlight.
1270.03.01	Exemptions	(a) is existing language revised to reflect defined terms and provide greater specificity (b) exempts wildfire rebuilds, under certain conditions (existing language with some modifications) (c) exempts ADUs (existing) (d) exempts roads used specifically for ag, mining, timber harvesting (existing)	Soliciting feedback on the threshold for wildfire rebuild size in yellow highlight

Section Number	Section Title	Brief Description	Notes
1270.03.02	Substandard Roads	<p>(a) would disallow projects where the access does not meet certain standards</p> <p>(b) would disallow projects where the project would cause the road traffic to exceed a certain threshold</p> <p>(c) would disallow ADUs (otherwise exempted) where the ADU would cause the road traffic to exceed a certain threshold</p>	Soliciting feedback on this proposal
1270.03.03	Aggregate Risk	<p>(a) requires a local jurisdiction to establish baseline traffic conditions</p> <p>(b) establishes the threshold which would disallow construction, as enumerated in 1270.03.02(b) and (c) above</p> <p>(c) provides the multiplier factor to be used to calculate (a) and (b)</p>	<p>Soliciting feedback on this proposal and the threshold in yellow in the rule text.</p> <p>The multiplier in (c) comes from the 2017 National Household Travel Survey, Summary of Trends, Table 3a, USDOT FHWA (link)</p>
1270.04	Local Regulations	<p>(a) establishes that these regulations serve as the minimum requirements in the SRA and VHFHSZ</p> <p>(b) adds greater specificity to PRC 4290(c)</p> <p>(c) local regulations may not provide exemptions that are not enumerated in these standards; exceptions must conform to exception process</p> <p>(d), (e), and (f) establish a process for local government to voluntarily request, and the Board to voluntarily provide, input on any relevant local</p>	Comments from local government?

Section Number	Section Title	Brief Description	Notes
		regulation (g) establishes that regardless of any local regulation, the minimum fire safe standards shall apply	
1270.05	Inspections	Establishes authorities for inspections, requirements for delegations of authority, and related issues	Comments from CAL FIRE and local governments?
1270.06	Exceptions	(a) establishes that these requirements are only applicable to request from exceptions from the fire safe regulations (b) existing language with some revisions for clarity; (b)(1) and (b)(2) provide guidance for granting exceptions (c) existing language with some revisions – addresses the information required to be included in the exception request (d), (d)(1), and (d)(2) establishes requirements for appeals of exception denials (e) establishes requirements for when exception appeals are granted	Seeking feedback on definition of “substantial compliance”
1270.07	Distance Measurements	Existing language moved from “Definitions” to its own section	

Article 2. Access and Egress

Section Number	Section Title	Brief Description	Notes
1273.00	Safe Access and Egress	(a) existing language revised to reflect defined terms (b)(1) establishes that all of these requirements apply within the perimeter of all building construction (b)(2) establishes that these requirements also apply to the infrastructure providing access to building construction over a certain threshold	Please see 1270.03 Scope to provide feedback on 1273.00(b)(2)
1273.01	Horizontal and Vertical Curves / Curb Radii	(a) is existing language with new subsections (1) and (2) to provide greater flexibility/clarity to local jurisdictions (b) provides additional flexibility/clarity (c) establishes standards for vertical curves Figures are provided for additional clarity	
1273.02	Road Surface	(a) existing requirement for roads to support 75,000 pounds. Additional language specifies the road material required. (b), (c), and (d) provide flexibility to local jurisdictions	
1273.03	Elevated or Bridge Structures	(a) establishes signage requirements (b) establishes standards for bridges or elevated surfaces (c) requires additional signing (d) set requirements for single-lane bridges (e) requires bridges to be of a non-combustible material	
1273.04	Road Grades	Establishes limitations on grade (slope) of roads; allows for mitigation measures to permit steeper grades; provides examples	

Section Number	Section Title	Brief Description	Notes
		of appropriate mitigation measures	
1275.00	Road Dimensions and Clearances	Establishes the following requirements for road dimensions	
1273.05.01	Road Width and Horizontal Clearances	(a) existing requirement (2 10-foot traffic lanes) with additional specifications for non-adjacent traffic lanes (b) existing requirement for width of one-way roads (c) requirements for clear widths for one way roads and bidirectional roads with a center median.	
1273.05.02	Built Roads	where building construction might otherwise be exempt from applying the fire safe regulations to roads, if the road is of such a substandard enumerated below, the project cannot be approved with upgrading the road. (a) – sets a floor for road width* (b) – sets a floor for road grade (c) – sets a floor for dead-end road lengths only in LRA VHFHSZ and where the VHFHSZ is mapped in the SRA (so this does not apply to SRA that is high or medium fire hazard or unmapped fire hazard) (d) – sets a floor for a 14-foot+ traffic lane regarding quality *this requirement would be applicable to the otherwise-exempt wildfire rebuilds and	Seeking feedback on this proposal/concept generally, and specifically on the standards set as the “floor” in each subsection. Those standards are reflective of other minimum standards in this Subchapter, but we are open to other ideas.

Section Number	Section Title	Brief Description	Notes
		ADUs	
1273.05.03	Road Vertical Clearance	Requirement for 13'6" clear space	
1273.05.04	Max length of one-way roads	Current requirements allow for a length limitation on distance and number of residential units served; proposed standard sets length limit only	
1273.05.05	Max length of dead-end roads	(a) shortened max allowable distance for parcels over 20 acres; applicable only to construction building a new dead-end road (b) sets turnaround standards (c) sets width standards (d) requires all dead-end roads be connected to a through road (e) sets standard for measuring length of dead-end roads (f) requires that a dead-end road passing through parcels of different sizes may only be as long as allowed by the smallest parcel size	
1273.05.06	Secondary Access/Egress	Allows the fire authority to require Building Construction to install a secondary access/egress, and sets standards therefore	Many changes made to this section since December 1 draft in response to public comment and Board direction; seeking confirmation this adequately addressed the issues raised.
1273.05.07	Turnouts	Sets requirements for turnout dimensions ((a)) and placement ((b) and (c)); provides figure for clarity.	
1273.05.08	Turnarounds	Sets requirements for turnaround placement and dimensions; includes figures for clarity	
1273.06	Security Gates	Sets requirements for security gate	

Section Number	Section Title	Brief Description	Notes
		dimensions and operational methods; includes figure for clarity	
1273.07	Driveways	Establishes that driveways shall comply with the following requirements	
1273.07.01	Driveway Width	Traffic lane width, horizontal clearance requirement, vertical clearance requirement	
1273.07.02	Driveway Turnarounds	Location of turnarounds; minimum radius; minimum hammerhead/"T" dimensions; includes figures for clarity	
1273.07.03	Driveway Turnouts	Frequency and location of turnouts; dimensions; references figure in 1273.05.07 for clarity	
1273.07.04	Driveway Structures	Sets standards for bridges and elevated surfaces on driveways	
1273.07.05	Driveway Grades and Surfaces	Requires driveways to meet the grade requirement for roads	
1273.07.06	Driveway Vertical Clearances	Requires 13'6" vertical clearance	
1273.07.07	Driveway Surfaces	Driveways shall be designed and maintained to support 36,000 pounds	

Article 3. Signing and Building Numbering

Section Number	Section Title	Brief Description	Notes
1274.00	Road Name Signs	Requires road signs to meet CA MUTCD requirements Existing requirements for naming roads, size of letters, numbers, and symbols	
1274.01	Road Sign Installation, Location, and Visibility	Existing requirements for placement of signs Signs required to meet retroreflectivity requirements	
1274.03	Address for Buildings	Cleans up existing language; addresses for buildings must comply with the California Fire Code and be reflectorized.	

Article 4. Water Supply

Section Number	Section Title	Brief Description	Notes
1275.00	Application	(a) these standards apply to all construction, except where noted (b) does not apply (under certain conditions) to existing water systems	
1275.01	Approved Water Supply	(a) water supply shall meet California Fire Code Requirements (b) alternative standard for certain water systems (NFPA 1142) (c) specifies when water supply shall be installed and made available (d) and (e) are both existing language regarding storage and freeze/crash protection	
1275.02	Identification of Water Sources	These are existing requirements for signs identifying water sources, but	

Section Number	Section Title	Brief Description	Notes
		rephrased/reworded for clarity.	
1275.03	Access to Water Sources	Establishes requirements for locking mechanisms used to guard against unauthorized access to water controls	
1275.04	Municipal Water System Hydrants and Fire Valves	(a) fire hydrant height requirements (existing requirement) (b) hydrant head sizes (existing; deletes requirements for size of outlets) (c) performance-based standard	Performance-based standard is our best professional consensus based on feedback received on December 1 draft.
1275.05	Dry Hydrants	Dry hydrants may be approved by the local jurisdiction and shall meet NFPA requirements	
1275.06	Mobile water supply	(a) sets limitations on when mobile water sources are allowed (b) establishes requirements relating to how quickly a mobile water supply can provide such water, for how long, and at what pressure (c) alternative standard (NFPA 1142) may be allowed to be used instead	
1275.07	Protection of Water Supply Infrastructure from Wildfire	Requires water supply infrastructure to be protected from wildfire and provides options/examples of such protection	

Article 5. Building Siting, Setbacks, and Fuel Modification

Section Number	Section Title	Brief Description	Notes
1276.00	Applicability	(a) establishes which sections all building construction shall comply with (b) establishes which sections building construction which meet the threshold(s) in 1270.03(c) shall comply with	See Article 1 for requested feedback on 1270.03(c)
1276.01	Design Plan	Requires building construction over a certain threshold to provide certain information in a plan or map if not already provided for	
1276.02	Building and Parcel Siting and Setback	Existing requirement for 30-foot setback on all parcels, and standards for allowing and approving alternative means of compliance	Suggested revisions to the existing language are in strikeout / <u>underline</u> . The 45-day rule text will have the selected language entirely in <u>underline</u> pursuant to the APA.
1276.03	Ridgelines	(a) a local jurisdiction shall identify strategic ridgelines by considering the criteria in this section (b) strategically important ridgelines shall be preserved (c) building construction on strategically important ridgelines shall be prohibited (d) local jurisdiction may implement additional requirements for strategic ridgelines	Significant changes since December 1 draft as a result of public comment, expert perspectives, and Board member feedback.
1276.04	Fuel Breaks	When building construction exceeds the threshold in 1270.03(c), fuel breaks may be required, and shall meet the requirements of this section	
1276.05	Greenbelts, Greenways, Open Spaces and Parks	Sets requirements for greenbelts, greenways, etc, when being used a fuel break.	

Section Number	Section Title	Brief Description	Notes
1276.06	Maintenance of Fuel Breaks	Requires annual maintenance agreements for fuel breaks; these are existing requirements with some modifications	
1276.07	Disposal of Flammable Vegetation and Fuels	Requirement that all vegetation disposal shall be in compliance with all applicable laws and regulations	

Attachment 3. Areas of Refuge Proposal

Proposed Definition

Area of Refuge: a location designed to hold people safely during a wildfire.

New subsections in § 1270.03 Scope

(d) Where Building Construction meeting the criteria in § 1270.03(c) is more than XX minutes from an Area of Refuge, the provisions of this Subchapter shall further apply to any Road or Road Structure that provides Access to the Building Construction.

(e) When Building Construction permits or approves new parcels, excluding lot line adjustments as specified in Government Code (GC) section 66412(d), and does not include within the project Perimeter an Area of Refuge, the provisions of this Subchapter shall further apply to any Road or Road Structure that provides Access to the Building Construction.

New addition to proposed language § 1273.05.02(c) –

(c) Notwithstanding any other provision in this Subchapter, Building Construction meeting the criteria in § 1270.03(c) shall not be approved where a Dead-end Road exceeds one (1) mile in length in a very high fire hazard severity zone in the SRA, designated pursuant to Government Code § 51178 and 14 CCR § 1280.01, or VHFHSZ in the LRA, as measured from the intersecting through Road. When such Building Construction includes an Area of Refuge or a Road connecting the Dead-end Road to a through Road, thus shortening the length of the Dead-end Road, the Local Jurisdiction may approve the construction.

New section to establish criteria for adequate areas of refuge:

§ XX Areas of Refuge

(a) The portion of any public buildings or public land used as an Area of Refuge shall be accessible to the general public at all times. An Area of Refuge included in a proposed project Perimeter shall be accessible to all reasonably foreseeable project occupants at all times. Areas of Refuge may include public parks; open space; greenbelts; or other land uses, or may be public or private buildings.

(b) Outdoor Areas of Refuge shall provide a space clear of vegetation to accommodate a net fifteen (15) square feet per person anticipated to occupy the Area of Refuge. When a designated outdoor Area of Refuge has reached maximum capacity, that Area of Refuge cannot be used to meet the standards in this Subsection for future Building Construction.

(c) Indoor Areas of Refuge shall be constructed to meet the requirements of California Code of Regulations, Title 24, Part 2, Chapter 7A, and, for planning purposes, shall serve as an Area of Refuge for no more people than its certified Occupancy.

(d) Any Building Construction relying on this Subsection to meet the requirements of § 1270.03(b – option four) shall provide for an Area or Areas of Refuge sufficiently sized to accommodate the maximum anticipated site capacity.

- The 15 square feet per person standard came from the net floor area for “Assembly Without Fixed Seats – Standing Space” from the Certified Commercial Property Inspectors Association ([link](#)).