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# SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Henry Stern, Chair

2021 - 2022 Regular

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<b>Bill No:</b>	AB 9	<b>Hearing Date:</b>	July 13, 2021
<b>Author:</b>	Wood		
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<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Catherine Baxter		

**Subject:** Fire safety and prevention: wildfires: fire adapted communities: Office of the State Fire Marshal: community wildfire preparedness and mitigation

## BACKGROUND AND EXISTING LAW

Existing law:

- 1) Establishes the Department of Conservation (DOC) within the California Natural Resources Agency (CNRA) and grants powers and duties to DOC regarding forestry, mines and geology, oil and gas, and soil conservation.
- 2) Establishes the Department of Forestry and Fire Protection (CalFire) within CNRA under the control of the director. Provides that CalFire is responsible for fire protection and prevention, and maintenance of the state's forest, range, and brushland resources, among other responsibilities.
  - a) Requires CalFire to:
    - i) Establish a local assistance grant program for fire prevention activities and to ensure that fire prevention activities happen year round.
    - ii) Take specified actions related to defensible space, including to consult with the Board of Forestry and Fire Protection on associated regulations.
    - iii) Enter into a joint powers agreement with the Office of Emergency Services (OES) to administer a comprehensive wildfire mitigation program to encourage cost-effective structure hardening and retrofitting and to facilitate vegetation management and defensible space, as specified.
    - iv) Consult with the Wildfire Safety Division of the Public Utilities Commission<sup>1</sup> to review wildfire mitigation plans prepared by electrical corporations, local publicly owned electric utilities, and electrical cooperatives, as specified.
  - b) Requires the CalFire director to:
    - i) Classify lands within state responsibility areas (SRA) into fire hazard severity zones, as specified, designate fire hazard severity zones, and assign to each zone a rating reflecting the degree of severity of fire hazard that is expected to prevail in the zone.
    - ii) Identify and recommend to local agencies areas in local responsibility areas (LRA) as very high fire hazard severity zones, as specified.

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<sup>1</sup> As of July 1, 2021 the Wildfire Safety Division has transitioned to the Office of Energy Infrastructure Safety, a new office under CNRA.

- iii) Take specified actions related to defensible space, including to authorize the director remove vegetation that is not consistent with defensible space standards.
- 3) Establishes the Office of the State Fire Marshal (OSFM) in CalFire under the direction State Fire Marshal (SFM). Provides that the functions of the OFSM are to foster, promote, and develop ways and means of protecting life and property against fire and panic. Further, directs the SFM to:
- a) Prepare and adopt building standards relating to fire protection for state institutions, other state-owned buildings, or state-occupied buildings and submit those building standards to the State Building Standards Commission for approval, as specified.
  - b) Propose, in consultation with the CalFire director and the director of the Housing and Community Development, fire protection building standards in fire hazard severity zones, including very high fire hazard severity zones, as specified, to the California Building Standards Commission.
- 4) Establishes the Board of Forestry and Fire Protection (board) within CalFire, consisting of nine members appointed by the Governor, subject to confirmation by the Senate. Requires the board, among other responsibilities, to:
- a) Promulgate regulations related to defensible space and prepare guidance on fuels management, in consultation with CalFire, as specified.
  - b) Review the safety element of a General Plan, as specified.
  - c) Survey local governments, including counties, cities, and fire districts, to identify existing subdivisions located in the SRA or a very high fire hazard severity zone without a secondary egress route that are at significant fire risk, as specified.

*Regional Forest and Fire Protection Program.* The Budget Act of 2018 (SB 856, Ch. 30) appropriated \$20 million GGRF to CNRA for grants to support regional implementation of landscape-level forest health projects to expand the Sierra Nevada Conservancy's Watershed Improvement Program model to the Northern, Coastal, and Southern California regions consistent with the recommendations of the Forest Carbon Plan. CNRA partnered with DOC to develop and implement the program, which became the Regional Forest and Fire Capacity Program (RFFC program or program).

The program offers block grants to increase regional capacity to prioritize, develop, and implement projects to improve forest health and fire resilience and increase carbon sequestration in forests throughout California. Regions that received funding included the Inland Empire, San Diego, Santa Monica Mountains, North Coast, Central Coast, and the Sierra Nevada Region. The California Fire Safe Council and the Watershed Training Center received statewide block grants to support a statewide forest health and fire resilience network, provide capacity building services in underserved regions, and provide technical assistance statewide.

In January 2021, the Administration released the Wildfire and Forest Resilience Action Plan (Action Plan) to reduce wildfire risk for vulnerable communities, improve forest and wildland health, and accelerate action to combat climate change. The Action Plan recommends expanding the RFFC program to all high-risk areas statewide and to develop a pipeline of local and regional shovel ready projects. The Governor's January 2021 budget proposal included \$85 million (\$25 million early action and \$60 million in the 2021 budget) for this, with expansion of the program proposed for Southern California, Lake County, Greater Sacramento Region, Napa County, and Shasta County. The Legislature appropriated \$50 million GF in early action (Ch. 14, Statutes of 2021) to DOC for the program. The program has not been established in statute.

## **PROPOSED LAW**

This bill would establish the Regional Forest and Fire Capacity Program in DOC and create a deputy director of Community Wildfire Preparedness and Mitigation (deputy director) within the OSFM to be responsible for CalFire's fire preparedness and mitigation missions, as specified.

Regarding the RFFC Program, this bill would:

- 1) Establish the RFFC program in DOC to support regional leadership to build local and regional capacity and develop, prioritize, and implement strategies and projects that create fire adapted communities and landscapes by improving watershed health, forest health, community wildfire preparedness, and fire resilience. Further, direct DOC, upon an appropriation by the Legislature, to:
  - a) Provide block grants to regional entities to develop regional strategies that develop governance structures, identify wildfire risks, foster collaboration, and prioritize and implement projects within the region to achieve the goals of the program.
  - b) Provide block grants to eligible coordinating organizations to support the statewide implementation of the program through coordination of and technical assistance to regional entities, as well as to support forest health and resilience efforts across regions and throughout the state.
  - c) Ensure, to the extent feasible, there are regional entities to cover every part of the state that contains or is adjacent to a very high or high fire hazard severity zone, as specified.
- 2) Authorize regional entities to implement program activities directly or provide subgrants or contracts, as specified, to develop regional priority strategies, complete project development and permitting, implement demonstration projects, and develop outreach, education, and training.
- 3) Direct DOC to do all of the following to maximize the benefits of the RFFC program:
  - a) Facilitate peer-to-peer learning within and between regions.
  - b) Provide technical assistance to regions.
  - c) Assist regions in identifying potential funding sources for regional priorities.
  - d) Publish and update on DOC's internet website information related to the program's implementation, including a list grantees and block grant outcomes.

- 4) Define terms for the RFFC program, including “eligible coordinating organizations” and “regional entities.”

Regarding the OSFM, this bill would:

- 5) Create a Deputy Director of Community Wildfire Preparedness and Mitigation within the OSFM to be responsible for CalFire’s fire preparedness and mitigation missions, as specified. Provide that the deputy director is responsible for the following:
  - a) The Fire Prevention Grants Program.
  - b) Various responsibilities related to defensible space, as specified.
  - c) The wildfire mitigation financial assistance program.
  - d) Establishing fire hazard severity zones, as specified, and very high fire hazard severity zones, as specified.
  - e) Conducting surveys of local governments, including counties, cities, and fire districts, to identify existing subdivisions located in the SRA or a very high fire hazard severity zone without a secondary egress route that are at significant fire risk, as specified.
  - f) Consulting with the Wildfire Safety Division of the Public Utilities Commission to review wildfire mitigation plans prepared by electrical corporations, local publicly owned electric utilities, and electrical cooperatives, as specified.
  - g) Reviewing safety elements of general plans, as specified.
  - h) Proposing wildland building code standards to the California Building Standards Commission for buildings located in very high fire hazard severity zones or urban wildland interface communities, as specified.
- 6) Provide that any reference in code to CalFire, the CalFire director, or board as it relates to the programs in (5) shall mean the deputy director.
- 7) Provide that the deputy director and any subordinate employee are the lowest priority employees at CalFire subject to redirect for fire incident support.
- 8) Direct the SFM, on or before January 1, 2023, to provide the Legislature with a report identifying known personnel and resource shortfalls in implementing the programs and activities overseen by the deputy director specified in (5).
- 9) Direct the OSFM to establish the SFM’s Wildfire Advisory Committee (committee), with specified members. Require the committee to:
  - a) Provide a consistent and regular means of communication on topics related to community wildfire preparedness and fire mitigation between CalFire, OSFM, and other stakeholders, as specified.
  - b) Provide a forum for addressing wildfire preparedness and mitigation issues of statewide concern.
  - c) Share latest available research and best practices regarding community fire preparedness and mitigation efforts.
  - d) Seek comments and specific input on proposed programs and technical issues, and inform local agencies and the public of applicable new laws and regulations.

- e) Provide updates and feedback regarding the programs operated by the OSFM, specified in (5).
  - f) Meet monthly
- 10) Direct the OSFM to establish the Community Wildfire Mitigation Assistance Program in order to:
- a) Provide technical assistance to local jurisdictions with community wildfire preparedness and prevention services and identify funding opportunities and best practices, as specified.
  - b) Identify:
    - i) Programs administered by state, regional, and local agencies to address and minimize the risks of wildfire and coordinate the implementation of those programs.
    - ii) Public and private programs that may be leveraged to facilitate defensible space, home hardening, and community fuel reduction to minimize the impacts of wildfire to habitable structures.
  - c) Conduct outreach efforts to regional and local wildfire mitigation groups.
  - d) Provide technical consultation with the development of city and county safety elements.

## **ARGUMENTS IN SUPPORT**

According to the author, "Wildfire in California is a diverse and complicated crisis that requires a different solution set in every corner of the state. Despite developing the world's premier firefighting force, California has lost more than 1,200 homes per year to wildfires in five of the last six years, and a total of 48,239 homes since 2015. It is painfully clear that we need to change our approach."

AB 9 proposes a two pronged solution. First, AB 9 builds on and codifies the Regional Forest and Fire Capacity Program currently underway at the Department of Conservation. This program provides crucial support to regional entities that will plan and develop a pipeline of priority projects that respond to the unique needs and of each region. Flexible block grant dollars delivered through the program bring the predictability and consistency that is required to make lasting change.

Second, AB 9 will create a sense of urgency and create organizational focus on the community preparedness and mitigation efforts that are currently taking a back seat at CALFIRE. This bill will create a new branch within the Office of the State Fire Marshal and move the community prevention and mitigation programs and duties of CALFIRE into this division. Finally this bill ensures that the state has a year around workforce focused on preparedness and mitigation.

The wildfire crisis is showing no signs of letting, and the status quo is unsustainable. It is time to change our strategy, California needs both needs both a world-class firefighting force AND a world-class fire preparedness and mitigation program."

## **ARGUMENTS IN OPPOSITION**

None Received.

## **COMMENTS**

**Codification of RFFC program.** The principal goal of the current program is to restore health and resilience to forests at the regional scale for multiple benefits, including climate adaptation. Greenhouse gas (GHG) emissions reductions and forest carbon sequestration are foundational components of the program given the original funding source – Greenhouse Gas Reduction Fund – and the budget item’s direction to fund projects consistent with the recommendations of the Forest Carbon Plan. The program offers two type of block grants:

- Regional block grants to develop regional priority plans, complete project development and permitting, implement forest management demonstration projects, and develop outreach, education, and training as needed to facilitate and build capacity for implementing the above activities.
- Statewide block grants to support a statewide forest health and fire resilience network, provide capacity building in underserved regions, and provide technical assistance statewide.

This bill includes the same two types of block grants for similar purposes, but does not require GHG reductions or forest carbon sequestration. This mirrors the switch in the 2021 early action budget to appropriate \$50 million from the General Fund for this program, which allows for more flexibility in how program funds are spent, including to allow the program to fund applications that do not have GHG reduction components. The bill also expands the program beyond forests to include watersheds more generally. This could better allow the program to consider and address wildfire risks outside of forested ecosystems.

The most substantial difference between the bill and the existing program, however, is that the bill includes creating fire adapted communities as a primary purpose and incorporates this purpose into the funding categories. This would allow the program to more comprehensively address and better integrate strategies and solutions for wildfire challenges at the community and landscape levels.

**Amendments.** If the bill moves forward, the Committee may wish to consider amendments to:

- Provide that program shall prioritize strategies and projects that maximize risk reductions to people and property, especially in the most vulnerable communities.
- Reframe one of the purposes of the program from improving watershed and forest health to improving ecosystem health.
- Include fire departments in the list of local entities that regional entities may subgrant or contract with to implement program activities.
- Include data collection and risk mapping as a fundable activity.
- Clarify DOC’s reporting requirement related to the outcomes of block grants.
- Other technical, conforming, or non-substantive changes.

**Expansion of OSFM.** Currently, wildfire preparedness and mitigation responsibilities are spread between a number of agencies and offices including CalFire, the OSFM, the board, OES, PUC, ARB, and OPR. The agencies with the most authority to take action

to reduce risk and the largest resources to do so – CalFire and CalOES – are both focused in terms of attention and resources on disaster response and fire suppression. This is not necessarily a criticism. The state may need a large firefighting force given the increasing scale and severity of wildfires to protect lives, property, and resources. But, fire suppression alone will not solve the problem. A report released by Stanford in April 2021 called, *A New Strategy for Addressing the Wildfire Epidemic in California* articulates this well and makes the case for a new approach:

“It is becoming increasingly clear — particularly during the unprecedented 2020 fire season — that there is no way for CalFire in combination with local and federal firefighting agencies to firefight the state out of [the wildfire] crisis. CalFire has seen continuous budget growth — almost all directed at fire suppression activities — that has been maintained despite intense budget pressure due to the COVID-19 related recession. In 2020, state fire suppression costs will total more than 2% of general fund expenditures. But it’s not at all clear that doubling or tripling the fire suppression outlay would lead to better outcomes for California communities... There is no sustained funding pathway targeting wildfire risk reduction... Large parts of California are becoming unlivable because we are failing to conduct risk reduction activities at sufficient scale to make a substantial difference to the problem. Until we do, because of the ever-worsening impacts of climate change, the fraction of the state disrupted by wildfire will expand and continue to deteriorate in condition...

A key message is that we need institutions focused on fire management and prevention that are of the same scale and capacity as those we have that are focused on suppression... The firefighting institutions we have built in the state are going to be essential. But additional, purpose-built institutions are needed so that firefighters can focus on the incredibly difficult challenges they will face while others can focus on the aspects of the wildfire problem that involve preparation, risk reduction, and prevention.”

([https://woodsinstiute.stanford.edu/system/files/publications/New\\_Strategy\\_Wildfire\\_Epidemic\\_Whitepaper\\_1.pdf](https://woodsinstiute.stanford.edu/system/files/publications/New_Strategy_Wildfire_Epidemic_Whitepaper_1.pdf), last accessed 7/4/21)

That report recommends California dramatically scale up its risk reduction activities, including by establishing goals to, within 10 years, harden one billion homes, create community fuel breaks to protect all communities in very high fire hazard severity zones in the SRA, FRA, and LRA, and prescribe burn 10 million acres. The report also recommends the creation of a Wildfire Resilience Department to house and coordinate these programs. The report estimated these strategies would cost the state \$3 billion per year, on par with the state’s fire suppression budget. For comparison, one recent study published in *Nature Sustainability* (<https://www.nature.com/articles/s41893-020-00646-7>) estimates that wildfire damages in 2018 totaled \$148.5 billion (roughly 1.5% of California’s annual gross domestic product), with \$27.7 billion in capital losses, \$32.2 billion in health costs, and \$88.6 billion in indirect losses.

This bill adopts a similar approach by consolidating CalFire’s wildfire preparedness and mitigation responsibilities under a new deputy director within the OSFM. There are key differences, however. The bill does not remove the specified programs and responsibilities to a new department. It consolidates CalFire’s programs and responsibilities related to wildfire mitigation and preparedness under one office within

CalFire, under the leadership and direction of one deputy. It also requires that the proposed deputy director and subordinate employees be the lowest priority employees at CalFire subject to redirect for fire incident support. Further, it establishes a committee to provide a forum for addressing wildfire preparedness and mitigation issues of statewide concern and a program to offer technical assistance to local jurisdictions on community wildfire mitigation best practices and funding opportunities. The goal is to create organizational efficiencies, improve coordination and consistency in policies and how these programs are run, and ensure these programs have ongoing dedicated staff and resources, including dedicated leadership to maintain the issue as a priority.

A key policy question for this Committee is whether the OSFM is the right place to house these programs? Other options include the board or a new office under CNRA.

The bill does not include a corresponding funding proposal. As noted in the Stanford report, funding will be critical to scale up the state's efforts to really make a difference in protecting lives, homes, and properties from wildfire. Consolidating fire prevention and preparedness responsibilities in one office, however, could make it easier to regularly assess the level of resources dedicated to these programs and activities to determine whether any adjustments are merited. The bill also requires the SFM to report to the Legislature on known personnel and resource shortfalls in implementing the programs and activities. This would provide an initial assessment to help inform funding decisions.

If the bill moves forward, the Committee may wish to consider the following amendments to:

- Further clarify the purposes of the Wildfire Mitigation Advisory Committee and the Community Wildfire Mitigation Assistance Program.
- For the programs and responsibilities that the bill would move to the SFM, the author provided amendments to clarify exactly which components the deputy director would be responsible for.
- Other technical, conforming, or non-substantive changes.

### **Related/Prior Legislation**

SB 63 (Stern, 2021) would make multiple changes in state law to enhance fire prevention efforts by CalFire, including, among other things, improved vegetation management and expanding the area where fire safety building standards apply. (*This bill is pending before the Assembly Housing and Community Development Committee.*)

SB 456 (Laird, 2021) directs specified agencies to develop a comprehensive implementation strategy to achieve the goals and key actions identified in the state's Action Plan, including expanding the RFFC program. (*This bill is pending before the Assembly Appropriations Committee.*)

AB 38 (Wood, Ch. 391, Statutes of 2019) directed CNRA, by July 1, 2021, to review the regional capacity of each county that contains a very high fire hazard severity zone to improve forest health, fire resilience, and safety.

## SUGGESTED AMENDMENTS

See mock-up following Support & Opposition

### SUPPORT

American Forest Foundation  
Association of California Water Agencies  
California Association of Resource Conservation Districts  
California Forestry Association  
California Landscape Stewardship Network  
California Native Plant Society  
California Special Districts Association  
California State Association of Counties  
Claremont Canyon Conservancy  
Coarsegold Resource Conservation District  
Colusa County Resource Conservation District  
Defenders of Wildlife  
Feather River Resource Conservation District  
Gold Ridge Resource Conservation District  
Irvine Ranch Conservancy  
Mendocino County Resource Conservation District  
North Bay Leadership Council  
North Coast Resource Partnership  
Northern California Power Agency

Pacific Forest Trust  
Resource Conservation District of Greater San Diego County  
Resource Conservation District of Tehama County  
Resource Conservation District of the Santa Monica Mountains  
Rural County Representatives of California  
San Mateo Resource Conservation District  
Sierra Business Council  
Sierra Consortium  
Sierra Forest Legacy  
Stronger CA  
Tahoe Resource Conservation District  
The Nature Conservancy  
The Watershed Research and Training Center  
Upper Salinas - Las Tablas Resource Conservation District  
Urban Counties of California  
Western Shasta Resource Conservation District  
Yolo County Resource Conservation District

### OPPOSITION

None Received

**Mock-up of bill as proposed to be amended**

**Article 11 (commencing with Section 4208) is added to Chapter 1 of Part 2 of Division 4 of the Public Resources Code, to read:**

**Article 11. Regional Forest and Fire Capacity Program**

**4208.** For purposes of this article, the following definitions apply:

- (a) "Department" means the Department of Conservation.
- (b) "Eligible coordinating organizations" means a local government, and tribal governments, resource conservation districts, joint powers authorities, or nongovernmental organizations with a history of providing technical assistance and demonstrated capacity to coordinate regional partners across the state.
- (c) "Program" means the Regional Forest and Fire Capacity Program.
- (d) "Regional entityties" means a state conservancy, local government, and tribal governments, resource conservation districts, joint powers authorities, or nongovernmental organizations with a history of implementing related projects, demonstrated capacity to work across regional partners, and ability to serve as fiscal administrators for the program.
- (e) "Statewide implementation" means identifying and supporting regional entities in every part of the state that contains or is adjacent to a very high or high fire hazard severity zone identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201).

**4208.1.** (a) There is hereby established in the department the Regional Forest and Fire Capacity Program to support regional leadership-to build local and regional capacity and develop, prioritize, and implement strategies and projects that create fire adapted communities and landscapes by improving watershed health, forest ecosystem health, community wildfire preparedness, and fire resilience. The program shall prioritize strategies and projects that maximize risk reductions to people and property, especially in the most vulnerable communities.

- (b) (1) The department shall, upon an appropriation by the Legislature for these purposes, do both of the following:
  - (A) Provide block grants to regional entities to develop regional strategies that develop governance structures, identify wildfire risks, foster collaboration, and prioritize and implement projects within the region to achieve the goals of the program.
  - (B) Ensure, to the extent feasible, there are regional entities to cover every part of the state that contains or is adjacent to a very high or high fire hazard severity zone identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201).
- (2) Regional entities may implement program activities directly or provide subgrants or contracts, and collaborative planning efforts with local entities, including municipal governments, tribal governments, nongovernmental organizations, community organizations, fire safe councils, land trusts, resource conservation districts, joint power authorities, special districts, fire departments, residents, private and public forest landowners and managers, businesses, and others, to assist the regional entity in accomplishing all of the following objectives:
  - (A) Develop regional priority strategies that develop and support fire adapted communities and landscapes by improving forest health, watershed health, fire risk reduction, or fire resilience needed to achieve local, regional, or statewide public safety,

climate resiliency, and ecosystem goals included in the “Agreement for Shared Stewardship of California’s Forest and Rangelands” and “California’s Wildfire and Forest Resilience Action Plan.”

(B) Complete project development and permitting to generate implementation-ready projects that address regional landscape resilience and community fire protection priorities for funding consideration.

(C) Implement forest management demonstration projects that showcase scalable models for management, funding, and achieving and quantifying multiple benefits.

(D) Implement community fire preparedness demonstration projects that create durable risk reduction for structures and critical community infrastructure.

(E) Develop outreach, education, and training as needed to facilitate and build capacity to implement this section.

**(F) Collect and assess data and information as needed to identify and map communities, infrastructure, forests, and watersheds at risk of and vulnerable to wildfire.**

(c) The department shall, upon an appropriation by the Legislature for these purposes, provide block grants to eligible coordinating organizations under the program to support the statewide implementation of the program through coordination of and technical assistance to regional entities, as well as to support forest health and resilience efforts across regions and throughout the state.

(d) To maximize the benefits of the program, the department shall do all of the following:

(1) Facilitate peer-to-peer learning within and between regions to share information, experiences, and resources to build regional capacity.

(2) Provide technical assistance to regions to enhance regional capacity and assist in the development and prioritization of projects.

(3) Assist regions in identifying potential funding sources for regional priorities.

(4) Encourage the development of local cost share opportunities.

(5) Publish and update on the department’s internet website the following information related to implementation of the program:

(A) A list of regional entities and eligible coordinating organizations **funded by the program.**

(B) The outcomes of any block grant provided to a regional entity or eligible coordinating organization, **including the number of people and properties for which wildfire risk has been mitigated, ecosystem health benefits, or other measurements of progress towards state goals for public health and safety, climate resilience and biodiversity.**

(C) A description of progress towards ensuring there are regional entities to cover every part of the state that contains or is adjacent to a very high or high fire hazard severity zone identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201).

### SEC. 3.

**Article 12 (commencing with Section 4209) is added to Chapter 1 of Part 2 of Division 4 of the Public Resources Code , to read:**

#### **Article 12. Community Wildfire Preparedness and Mitigation**

**4209.** There is within the Office of the State Fire Marshal a Deputy Director of Community Wildfire Preparedness and Mitigation who shall be responsible for fire

preparedness and mitigation missions of the Department of Forestry and Fire Protection, as provided in Section 4209.1.

**4209.1.** (a) The Deputy Director of Community Wildfire Preparedness and Mitigation shall be responsible for all of the following programs and activities:

- (1) The Fire Prevention Grants Program (Article 2.5 (commencing with Section 4124)).
- (2) Defensible space requirements pursuant to Sections 4291 and 4291.1.
- (3) The California wildfire mitigation financial assistance program described in Article 16.5 (commencing with Section 8654.2) of Chapter 7 of Division 1 of Title 2 of the Government Code.
- (4) The establishment of fire hazard severity zones pursuant to Article 9 (commencing with Section 4201) of this code and very high fire hazard severity zones pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code.
- (5) The requirements of Section 4290.5.
- (6) Wildfire mitigation plans, pursuant to Chapter 6 (commencing with Section 8385) of Division 4.1 of the Public Utilities Code.
- (7) General plan safety element review pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code.
- (8) Wildland building code standards pursuant to Section 13108.5 of the Health and Safety Code.

**(b) Any reference in code to the Department of Forestry and Fire Protection, the Director of Forestry and Fire Protection, or the State Board of Forestry and Fire Protection as it relates to the programs described in subdivision (a) shall mean the Deputy Director of Community Wildfire Preparedness and Mitigation.**

**4209.2.** The Deputy Director of Community Wildfire Preparedness and Mitigation and any subordinate employee shall be primarily assigned to the responsibilities established by this article and shall be the lowest priority employees of the Department of Forestry and Fire Protection for purposes of fire incident support duties.

**4209.3.** (a) The State Fire Marshal shall, on or before January 1, 2023, provide the Legislature with a report identifying known personnel and resource shortfalls in implementing programs and activities overseen by the Deputy Director of Community Wildfire Preparedness and Mitigation pursuant to **Section 4209.1 this article**.

(b) A report submitted to the Legislature pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section shall be repealed on January 1, 2027.

**4209.4.** (a) The Office of the State Fire Marshal shall establish the State Fire Marshal's Wildfire Mitigation Advisory Committee **to provide a public forum to solicit and consider public input on programs and activities pursuant to this article and to advise the deputy director in developing and implementing programs and activities pursuant to this article.**

(b) The committee shall do all of the following:

- (1) Provide a consistent and regular means of communication on topics related to community wildfire preparedness and fire mitigation between the department, the Office of the State Fire Marshal, representatives of relevant industries, state agencies, fire service agencies, and other stakeholders.

- (2) Provide a forum for addressing wildfire preparedness and mitigation issues of statewide concern.
- (3) Share latest available research and best practices with regard to community fire preparedness and mitigation efforts.
- (4) Seek and provide comments and specific input on proposed programs, polices, guidelines, budget and technical issues, and inform local agencies and the public of applicable new laws and regulations.
- (5) Provide and receive updates and feedback regarding the programs operated by the Office of the State Fire Marshal pursuant to Section 4209.1 this article.
- (c) Members of the committee shall be all of the following:
- (1) The director of the department, or their designee.
  - (2) The State Fire Marshal, or their designee.
  - (3) The Director of Emergency Services, or their designee.
  - (4) The Insurance Commissioner, or their designee.
  - (5) The Director of State Planning and Research, or their designee.
  - (6) A representative from the California Fire Safe Council.
  - (7) A representative from the insurance industry or an insurance research organization.
  - (8) A local fire service representative.
  - (9) A representative from the building industry.
  - (10) A representative from the University of California Cooperative Extension.
  - (11) Any other appropriate stakeholders, including representatives from local governmental agencies, as decided by the State Fire Marshal.
- (d) The committee shall meet monthly.

**4209.5.** (a) The Office of the State Fire Marshal shall establish the Community Wildfire Mitigation Assistance Program to coordinate regional and local efforts with state policies, strategies, and programs for community wildfire mitigation in order to improve wildfire preparedness and prevention, with an emphasis on the most vulnerable communities.

- (b) The program shall do all of the following:
- (1) Provide technical assistance to local jurisdictions with community wildfire preparedness and prevention services and identify funding opportunities and best practices, including, but not necessarily limited to, defensible space, structure hardening, fuel reduction around communities, wildland building code standards, and land use planning.
  - (2) Identify both of the following:
    - (A) Programs administered by state, regional, and local agencies to address and minimize the risks of wildfire and coordinate the implementation of those programs.
    - (B) Public and private programs that may be leveraged to facilitate defensible space, home hardening, and community fuel reduction to minimize the impacts of wildfire to habitable structures.
  - (3) Conduct outreach efforts to regional and local wildfire mitigation groups, including educating and informing regional and local agencies, stakeholders, and the public of applicable new laws and regulations.
  - (4) Provide technical consultation with the development of city and county safety elements.
- (5) Develop tools and guidance.**
- (6) Establish a statewide clearinghouse for use by state, regional, and local entities to provide a centralized source of data, information, research articles, studies, white papers, reports, best practices, model ordinances, demonstration**

projects, tools, and other resources related to community wildfire preparedness, mitigation, and risk reduction.

#### SEC. 4

Section 4124.8 is added to the Public Resources Code, to read:

**4124.8. (a) On or before June 1 2022, all of the duties and responsibilities for this program shall be transferred to the Office of the State Fire Marshal.**

#### SEC. 5

Section 4202 of the Public Resources Code is amended to read:

**4202.** The ~~director~~ **State Fire Marshal** shall classify lands within state responsibility areas into fire hazard severity zones. Each zone shall embrace relatively homogeneous lands and shall be based on fuel loading, slope, fire weather, and other relevant factors present, including areas where winds have been identified by the department as a major cause of wildfire spread.

#### SEC. 6

Section 4203 of the Public Resources Code is amended to read:

**4203. (a)** The ~~director~~ **State Fire Marshal** shall, by regulation, designate fire hazard severity zones and assign to each zone a rating reflecting the degree of severity of fire hazard that is expected to prevail in the zone.

**(b)** No designation of a zone and assignment of a rating shall be adopted by the ~~director~~ **State Fire Marshal** until the proposed regulation has been transmitted to the board of supervisors of the county in which the zone is located at least 45 days prior to the adoption of the proposed regulation and a public hearing has been held in that county during that 45-day period.

#### SEC. 7

Section 4204 of the Public Resources Code is amended to read:

**4204.** The ~~director~~ **State Fire Marshal** shall periodically review zones designated and rated pursuant to this article and, as necessary, shall revise zones or their ratings or repeal the designation of zones. Any revision of a zone or its rating or any repeal of a zone shall conform to the requirements of Section 4203. In addition, the revision or repeal of a zone may be petitioned pursuant to Sections 11340.6 and 11340.7 of the Government Code.

#### SEC. 8

Section 4291 of the Public Resources Code is amended to read:

**4291. (a)** A person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-

covered lands, grass-covered lands, or land that is covered with flammable material, shall at all times do all of the following:

(1) (A) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line, except as provided in subparagraph (B). The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This subparagraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, with more intense fuel reductions being utilized between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. The promulgation of these regulations by the board is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose. Consistent with fuels management objectives, steps should be taken to minimize erosion. For the purposes of this subparagraph, "fuel" means any combustible material, including petroleum-based products and wildland fuels.

(B) A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.

(C) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under subparagraph (A) if a fire expert, designated by the director, provides findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.

(2) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(3) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.

(4) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

(5) Before constructing a new building or structure or rebuilding a building or structure damaged by a fire in an area subject to this section, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding,

the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

(c) (1) Except as provided in Section 18930 of the Health and Safety Code, the ~~director~~ **State Fire Marshal** may adopt regulations exempting a structure with an exterior constructed entirely of nonflammable materials, or, conditioned upon the contents and composition of the structure, the director may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

(2) An exemption or variance under paragraph (1) shall not apply unless and until the occupant of the structure, or if there is not an occupant, the owner of the structure, files with the ~~director~~ **State Fire Marshal**, in a form as the director shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(d) The ~~director~~ **State Fire Marshal** may authorize the removal of vegetation that is not consistent with the standards of this section. The ~~director~~ **State Fire Marshal** may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.

(e) (1) The board, in consultation with the ~~department~~ **State Fire Marshal**, shall develop, periodically update, and post on its internet website a guidance document on fuels management pursuant to this chapter. The guidance document shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species that are fire resistant or drought tolerant, or both, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion such as woodpiles, propane tanks, decks, and outdoor lawn furniture.

(2) On or before January 1, 2023, the board, in consultation with the ~~department~~ **State Fire Marshal**, shall update the guidance document to include suggestions for creating an ember-resistant zone within five feet of a structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. The implementation of this paragraph is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose.

(f) (1) The ~~department~~ **State Fire Marshal** shall do both of the following:

(A) Recommend to the board the types of vegetation or fuel that are to be excluded from an ember-resistant zone based on the probability that vegetation and fuel will lead to ignition by ember of a structure as a part of the update to the guidance document pursuant to paragraph (2) of subdivision (e).

(B) Make reasonable efforts to provide notice to affected residents describing the requirements added by the amendments to paragraph (1) of subdivision (a) made in

Assembly Bill 3074 of the 2019–20 Regular Session before the imposition of penalties for violating those requirements.

(2) The implementation of this subdivision is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose.

(g) (1) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall not take effect for new structures until the board updates the regulations, pursuant to paragraph (1) of subdivision (a), and the guidance document, pursuant to paragraph (2) of subdivision (e).

(2) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall take effect for existing structures one year after the effective date for the new structures.

(h) The department shall not change defensible space inspection practices and forms or enforcement to implement the requirement for an ember-resistant zone until the ~~director~~ State Fire Marshal makes a written finding, which the ~~director~~ State Fire Marshal shall post on the department's internet website, that the Legislature has appropriated sufficient resources to do so.

(i) For purposes of this section, a structure for the purpose of an ember-resistant zone shall include any attached deck. This section does not limit the authority of the board or the department to require the removal of fuel or vegetation on top of or underneath a deck pursuant to this section.

(j) As used in this section, "person" means a private individual, organization, partnership, limited liability company, or corporation.

## SEC. 9

### Section 8654.4 of the Government Code is amended to read:

**8654.4.** The Office of Emergency Services shall enter into a joint powers agreement, in accordance with the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) and this article, with the Department of Forestry and Fire Protection to develop and administer a comprehensive wildfire mitigation program to do both of the following:

(a) Encourage cost-effective structure hardening and retrofitting that creates fire-resistant homes, businesses, and public buildings.

(b) Facilitate vegetation management, the creation and maintenance of defensible space, and other fuel modification activities that provide neighborhood or communitywide benefits against wildfire.

**(c) The Department shall delegate its duties and responsibilities for this program to the Office of the State Fire Marshal**

## SEC. 10

### Section 65302 of the Government Code is amended to read:

**65302.** The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty,

education, public buildings and grounds, solid and liquid waste disposal facilities, greenways, as defined in Section 816.52 of the Civil Code, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the members of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (g) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources, including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The

conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

- (A) The reclamation of land and waters.
- (B) Prevention and control of the pollution of streams and other waters.
- (C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (D) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (E) Protection of watersheds.

(F) The location, quantity, and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

- (A) Highways and freeways.
- (B) Primary arterials and major local streets.
- (C) Passenger and freight online railroad operations and ground rapid transit systems.
- (D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
- (E) Local industrial plants, including, but not limited to, railroad classification yards.
- (F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average sound level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by FEMA. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 6161 of the Water Code that are available from the Department of Water Resources.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wilds, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations,

emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Plan Technical Advice Series" and shall also include all of the following:

(A) Information regarding fire hazards, including, but not limited to, all of the following:

(i) Fire hazard severity zone maps available from the ~~Department of Forestry and Fire Protection Office of the State Fire Marshal~~.

(ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.

(iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.

(iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.

(v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.

(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) Upon the next revision of a local hazard mitigation plan, adopted in accordance with the federal Disaster Mitigation Act of 2000 (Public Law 106-390), on or after January 1, 2017, or, if a local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, the safety element shall be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to the city or county. This review shall consider advice provided in the Office of Planning and Research's General Plan Guidelines and shall include all of the following:

(A) (i) A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at risk from climate change impacts, including, but not limited to, an assessment of how climate change may affect the risks addressed pursuant to paragraphs (2) and (3).

(ii) Information that may be available from federal, state, regional, and local agencies that will assist in developing the vulnerability assessment and the adaptation policies and strategies required pursuant to subparagraph (B), including, but not limited to, all of the following:

(I) Information from the internet-based Cal-Adapt tool.

(II) Information from the most recent version of the California Adaptation Planning Guide.

(III) Information from local agencies on the types of assets, resources, and populations that will be sensitive to various climate change exposures.

(IV) Information from local agencies on their current ability to deal with the impacts of climate change.

(V) Historical data on natural events and hazards, including locally prepared maps of areas subject to previous risk, areas that are vulnerable, and sites that have been repeatedly damaged.

(VI) Existing and planned development in identified at-risk areas, including structures, roads, utilities, and essential public facilities.

(VII) Federal, state, regional, and local agencies with responsibility for the protection of public health and safety and the environment, including special districts and local offices of emergency services.

(B) A set of adaptation and resilience goals, policies, and objectives based on the information specified in subparagraph (A) for the protection of the community.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Feasible methods to avoid or minimize climate change impacts associated with new uses of land.

(ii) The location, when feasible, of new essential public facilities outside of at-risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in at-risk areas.

(iii) The designation of adequate and feasible infrastructure located in an at-risk area.

(iv) Guidelines for working cooperatively with relevant local, regional, state, and federal agencies.

(v) The identification of natural infrastructure that may be used in adaptation projects, where feasible. Where feasible, the plan shall use existing natural features and ecosystem processes, or the restoration of natural features and ecosystem processes, when developing alternatives for consideration. For purposes of this clause, "natural infrastructure" means using natural ecological systems or processes to reduce

vulnerability to climate change related hazards, or other related climate change effects, while increasing the long-term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services. This includes, but is not limited to, the conservation, preservation, or sustainable management of any form of aquatic or terrestrial vegetated open space, such as beaches, dunes, tidal marshes, reefs, seagrass, parks, rain gardens, and urban tree canopies. It also includes systems and practices that use or mimic natural processes, such as permeable pavements, bioswales, and other engineered systems, such as levees that are combined with restored natural systems, to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife.

(D) (i) If a city or county has adopted the local hazard mitigation plan, or other climate adaptation plan or document that fulfills commensurate goals and objectives and contains the information required pursuant to this paragraph, separate from the general plan, an attachment of, or reference to, the local hazard mitigation plan or other climate adaptation plan or document.

(ii) Cities or counties that have an adopted hazard mitigation plan, or other climate adaptation plan or document that substantially complies with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions, climate adaptation plan or document, specifically showing how each requirement of this subdivision has been met.

(5) Upon the next revision of the housing element on or after January 1, 2020, the safety element shall be reviewed and updated as necessary to identify residential developments in any hazard area identified in the safety element that do not have at least two emergency evacuation routes.

(6) After the initial revision of the safety element pursuant to paragraphs (2), (3), (4), and (5), the planning agency shall review and, if necessary, revise the safety element upon each revision of the housing element or local hazard mitigation plan, but not less than once every eight years, to identify new information relating to flood and fire hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element.

(7) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(8) Before the periodic review of its general plan and before preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(9) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

(h) (1) An environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, shall do all of the following:

(A) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.

(B) Identify objectives and policies to promote civic engagement in the public decisionmaking process.

(C) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.

(2) A city, county, or city and county subject to this subdivision shall adopt or review the environmental justice element, or the environmental justice goals, policies, and objectives in other elements, upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018.

(3) By adding this subdivision, the Legislature does not intend to require a city, county, or city and county to take any action prohibited by the United States Constitution or the California Constitution.

(4) For purposes of this subdivision, the following terms shall apply:

(A) "Disadvantaged communities" means an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.

(B) "Public facilities" includes public improvements, public services, and community amenities, as defined in subdivision (d) of Section 66000.

(C) "Low-income area" means an area with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code.

## SEC. 11

### Section 13108.5 of the Health and Safety Code is amended to read:

**13108.5.** (a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the ~~Director of Forestry and Fire Protection State Fire Marshall~~ pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

(b) Building standards adopted pursuant to this section shall also apply to buildings located in very high fire hazard severity zones designated pursuant to Chapter 6.8

(commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, and other areas designated by a local agency following a finding supported by substantial evidence in the record that the requirements of the building standards adopted pursuant to this section are necessary for effective fire protection within the area.

(c) Building standards adopted pursuant to this section shall also apply to buildings located in urban wildland interface communities. A local agency may, at its discretion, include in or exclude from the requirements of these building standards any area in its jurisdiction following a finding supported by substantial evidence in the record at a public hearing that the requirements of these building standards are necessary or not necessary, respectively, for effective fire protection within the area. Changes made by a local agency to an urban wildland interface community area following a finding supported by substantial evidence in the record shall be final and shall not be rebuttable.

(d) For purposes of subdivision (c), "urban wildland interface community" means a community listed in "Communities at Risk from Wild Fires," produced by the California Department of Forestry and Fire Protection, Fire and Resource Assessment Program, pursuant to the National Fire Plan, federal Fiscal Year 2001 Department of the Interior and Related Agencies Appropriations Act (Public Law 106-291).

## SEC. 12

### Section 8386.3 of the Public Utilities Code is amended to read:

**8396.3.** (a) The Wildfire Safety Division shall approve or deny each wildfire mitigation plan and update submitted by an electrical corporation within three months of its submission, unless the division makes a written determination, which shall include reasons supporting the determination, that the three-month deadline cannot be met. Each electrical corporation's approved plan shall remain in effect until the division approves the electrical corporation's subsequent plan. The division shall consult with the Department of Forestry and Fire Protection Office of the State Fire Marshal on the review of each wildfire mitigation plan and update. In rendering its decision, the division shall consider comments submitted pursuant to subdivision (d) of Section 8386. Before approval, the division may require modifications of the plan. After approval by the division, the commission shall ratify the action of the division.

(b) The Wildfire Safety Division's approval of a plan is not a defense to any enforcement action for a violation of a commission decision, order, or rule.

(c) Following approval of a wildfire mitigation plan, the Wildfire Safety Division shall oversee compliance with the plan consistent with all of the following:

(1) Three months after the end of an electrical corporation's initial compliance period, as established by the Wildfire Safety Division pursuant to subdivision (b) of Section 8386, and annually thereafter, each electrical corporation shall file with the division a report addressing its compliance with the plan during the prior calendar year.

(2) (A) Before March 1, 2021, and before each March 1 thereafter, the Wildfire Safety Division, in consultation with the Department of Forestry and Fire Protection Office of the State Fire Marshal, shall make available a list of qualified independent

evaluators with experience in assessing the safe operation of electrical infrastructure.

(B) (i) Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation's compliance with its plan. The engaged independent evaluator shall consult with, and operate under the

direction of, the Wildfire Safety Division of the commission. The independent evaluator shall issue a report on July 1 of each year in which a report required by paragraph (1) is filed. As a part of the independent evaluator's report, the independent evaluator shall determine whether the electrical corporation failed to fund any activities included in its plan.

(ii) The Wildfire Safety Division shall consider the independent evaluator's findings, but the independent evaluator's findings are not binding on the division, except as otherwise specified.

(iii) The independent evaluator's findings shall be used by the Wildfire Safety Division to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.

(iv) The independent evaluator's findings do not apply to events that occurred before the initial plan is approved for the electrical corporation.

(3) The commission shall authorize the electrical corporation to recover in rates the costs of the independent evaluator.

(4) The Wildfire Safety Division shall complete its compliance review within 18 months after the submission of the electrical corporation's compliance report.

(5) (A) An electrical corporation shall notify the Wildfire Safety Division, within one month after it completes a substantial portion of the vegetation management requirements in its wildfire mitigation plan, of the completion. Upon receiving the notice from the electrical corporation, the division shall, consistent with its authority pursuant to paragraph (1) of subdivision (a) of Section 326, promptly audit the work performed by, or on behalf of, the electrical corporation. The audit shall specify any failure of the electrical corporation to fully comply with the vegetation management requirements in the wildfire mitigation plan. The division shall provide the audit to the electrical corporation. The electrical corporation shall have a reasonable time, as determined by the division, to correct and eliminate any deficiency specified in the audit.

(B) The Wildfire Safety Division may engage its own independent evaluator, who shall be a certified arborist and shall have any other qualifications determined appropriate by the division, to conduct the audit specified in subparagraph (A). The independent evaluator shall consult with, and operate under the direction of, the division.

(C) Within one year of the expiration of the time period for an electrical corporation to correct and eliminate any deficiency identified in the audit, the independent evaluator shall issue a report to the electrical corporation, the Wildfire Safety Division, and the Safety and Enforcement Division of the commission specifically describing any failure of the electrical corporation to substantially comply with the substantial portion of the vegetation management requirements in the electrical corporation's wildfire mitigation plan. The report shall be made publicly available. The Wildfire Safety Division shall include the report in its compliance review prepared pursuant to paragraph (4).

(6) Each electrical corporation shall reimburse the Wildfire Safety Division for its costs to implement this section with respect to that electrical corporation.

(d) An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan. An electrical corporation shall notify the commission by advice letter of the date when it projects that it will have spent, or incurred obligations to spend, its entire annual revenue requirement for vegetation management in its wildfire mitigation plan not less than 30 days before that date.

(e) The commission shall not allow a large electrical corporation to include in its equity rate base its share, as determined pursuant to the Wildfire Fund allocation metric specified in Section 3280, of the first five billion dollars (\$5,000,000,000) expended in aggregate by large electrical corporations on fire risk mitigation capital expenditures

included in the electrical corporations' approved wildfire mitigation plans. An electrical corporation's share of the fire risk mitigation capital expenditures and the debt financing costs of these fire risk mitigation capital expenditures may be financed through a financing order pursuant to Section 850.1 subject to the requirements of that financing order.

(f) This section does not impose any liability on the Wildfire Safety Division regarding the performance of its duties.

## **SEC. 13**

**Section 8386.5 of the Public Utilities Code is amended to read:**

**8386.5.** The commission and the Department of Forestry and Fire Protection Office of the State Fire Marshal shall enter into a memorandum of understanding to cooperatively develop consistent approaches and share data related to fire prevention, safety, vegetation management, and energy distribution systems. The commission and the department shall share results from various fire prevention activities, including relevant inspections and fire ignition data.

**-- END --**