



To: Commissioner Carla Peterman, Chair
Commissioner Dave Jones
Commissioner Michael Kahn
Commissioner Pedro Nava
Commissioner Michael Wara
Evan Johnson, Executive Officer

From: American Property Casualty Insurance Association

Re: **Recommendations from the Homeowners and Mitigation Workgroup**

Date: June 6, 2019

Dear Commissioners:

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to submit comments in response to the release of the draft Wildfire Commission Insurance Working Group Report. While APCIA also has concerns about the recommendations of the utility wildfire liability working group, those concerns have been addressed in other comment letters. APCIA represents nearly sixty percent of Property Casualty insurers protecting homeowners, vehicles, and businesses across the United States. APCIA members agree that more must be done to combat the increasing frequency and severity of wildfires in recent years. However, there are recommendations made in the draft insurance working group report that are well intended but would not accomplish the goal of improving the insurance marketplace.

Recommendations from the Homeowners and Mitigation Workgroup

Recommendation #1: Doing nothing to improve insurance conditions in the state is not a good option.

Recommendation #2: California should preserve its risk-based approach to pricing home insurance.

APCIA Comments: APCIA members agree that more can be done to improve the conditions that insurers, and homeowners who live in these areas face. Federal, state, and local governments must take proactive steps to remove dead and diseased trees and brush from the wildland urban interface (WUI). The cumulative effect of years of drought and bark beetle infestations have contributed to a significant wildfire fuel load. Millions of dead trees have contributed to the ferocity of wildfires in the past two years. Responsible land use management will reduce wildfire risk and encourage the affordability and availability of insurance products in wildfire prone areas.

APCIA members agree that California should preserve its risk-based approach to pricing home insurance. Homeowners in low wildfire risk areas should not have to subsidize the choice of other homeowners to live in high-risk areas. We also believe that insurers should have the ability to consider all the costs of offering homeowners insurance, including the cost of reinsurance when formulating rates.

Recommendation #3: Improve the California FAIR Plan.

Recommendation #4: Improve the California Insurance Guarantee Association.

APCIA Comments: APCIA believes that a proposal to increase limits available under the FAIR Plan will have the unintended consequence of encouraging more development in wildfire prone areas. Any changes to the FAIR plan must ensure that the FAIR plan can continue to operate as the insurer of last resort and not place the FAIR Plan into competition with the private market. This proposal should be studied to determine what limits people are requesting, how many people are over the \$1.5 million limit and where the properties are located.

Furthermore, a proposal to increase the California Insurance Guarantee Association cap from \$500,000 to \$1 million would put additional financial stress on insurers offering homeowners insurance in the state. The Guaranty Fund is capitalized through assessments on insurers writing in California.

Recommendation #5: Require wildfire risk underwriting models used by insurers to be filed and approved by the CDI.

APCIA Comments: APCIA members believe that a requirement to file a wildfire risk underwriting model would have a chilling impact on the development of new models that will better incorporate new factors such as wind. Restricting the use of modeling, or other limits on underwriting, only make it more arduous for insurers to conduct business in California. This added difficulty may act as a deterrent to new entrants in the California insurance market.

Recommendation #6: Set standards for home fire risk reduction and community risk reduction and require insurers to write insurance where both standards are met.

APCIA Comments: The model for recommendation #6 is Wildfire Partners in Colorado but it misunderstands the program. The program was set up as a cooperative effort between Boulder County, community residents, insurance trades and some insurance companies. The insurers in the program are the only companies required to write in the community. It is also important to note that these efforts mitigate, but do not prevent wildfires. Efforts to impose requirements on all insurers are inappropriate. The FAIR plan is already required to write all properties in California.

Recommendation #7: Require insurers to implement a tiered mitigation credit based on level of home hardening.

APCIA Comments: These requirements make it more difficult for insurers to effectively manage their risk. Insurers' appetite for risk varies, and insurers should have the underwriting freedom to decide which policies to add as new business.

Recommendation #8: Require insurers to calculate and provide a replacement cost housing estimate in writing to insureds annually and before entering into an insurance contract.

Recommendation #9: Require insurers to file annually with CDI for review and approval the insurers' replacement cost estimating models and tools, as well as a comparison of recent loss experience to estimates based on these tools.

APCIA Comments – The Legislature has already addressed these issues. The responsibility for determining appropriate coverage lays with the policyholder who pays the premium. Filing models for department approval would impose the same regulatory burdens on underwriting that insurers already face on rates and forms. The law is clear that the department does not have authority over underwriting. The recommendation also ignores the challenges on appropriate insurance coverage in the aftermath of the historic fire laws is driving by demand surge which is not built into the requirements. If the Legislature want to take away the responsibility from the homeowner, who pays the premium to determine coverage amounts and require that insurer models be approved by the department then insurers who use these models should be provided a safe harbor against lawsuits.

Recommendation #10: Require CDI to undertake a data call on the insurers' subrogation claims.

Recommendation #11: Require CDI to undertake a data call on insurers' reinsurance cost and availability.

APCIA Comments: These recommendations are unnecessary. Existing post-wildfire data calls already collect this information. Most subrogation cases result in an industry settlement so it would more efficient to gather this data from the utility than from the numerous insurers.

Recommendation #12: Require insurers to offer a 1 year *plus* a 45-day notice of non-renewal.

An additional requirement of a 1-year notice of non-renewal would make it more difficult for companies to manage their risk for insolvency purposes. This would make California a complete outlier. Most states required between 10 days and 45 days. Even Florida only requires a 120-day advance notice of non-renewal. This recommendation also creates implementation problems. A typical insurance contract is one-year. How is a company to provide a notice prior to the start of the policy year? Would insurers be required to

provide a notice of non-renewal 45 days **prior** to the beginning of each policy year just to protect themselves? This would create significant consumer confusion.

In addition, the legislature and the Department of Insurance have worked to address the difficulties consumer may have in finding new insurance through the department's agent finder and the legislation to create an insurance finder.

Recommendation #13: Mandate all homeowner insurers offer a difference in conditions policy or a comprehensive personal liability/residential workers compensation coverage.

APCIA Comments: As stated earlier, insurers' appetite for risk varies. Insurers should have the discretion to offer insurance products in areas where they have the underwriting and rating sophistication to make a reasonable profit. Imposing a requirement on all insurers will act as a deterrent to companies who may be considering entering the California marketplace.

Recommendation #14: Require that there be a valid quote for insurance coverage before any real estate offer is accepted.

APCIA Comments: It is unclear what the purpose of this recommendation is? Real Estate transactions that have a mortgage typically require that the policy be bound prior to the closing. If the suggestion is that each buyer who puts in an offer on house have a valid insurance quote this is going to create undue work for the insurance industry. Many times, there may be multiple offers on a house but only one winner.

Recommendation #15: Establish a Wildfire Vulnerability Risk and Reduction Coordinator

APCIA Comments: This seems like a reasonable request to create a coordinator among wildfire stakeholders. The coordinator should be able to make recommendations, but not impose requirements on stakeholders.

Recommendation #16: Additional Risk Mitigation Recommendations

APCIA Comments: This seems like a reasonable recommendation to increase investments in wildfire prevention and mitigation. According to the National Institute of Building Sciences (NIBS), for every \$1 invested in federal pre-disaster mitigation programs yields \$6 in saved future costs to the American taxpayer. Designating funds for direct mitigation or grants for home hardening will signal that it is important for the homeowner to take more proactive responsibility for mitigating their homes against future wildfire damage.

Thank you for the opportunity to comment on the draft recommendations. APCIA is committed to providing real solutions that will best ensure that California have access to appropriately priced risk-based homeowners insurance and looks forward to the work

ahead. If you have any questions please contact Jeremy Merz at Jeremy.merz@apci.org
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