

Attachment 1
Draft Comment Letter to the Board of Forestry

April XX, 2021

Chair J. Keith Gilles
Vice Chair Darcy Wheelles
Member Mike Jani
Member Rich Wade
Member Susan Husari
Member Marc Los Huertos
Member Katie Delbar
Member Christopher Chase
State Board of Forestry and Fire Protection
Post Office Box 944246
Sacramento, CA 94244-2460

RE: Proposed Revisions to the State Minimum Fire Safe Regulations

Dear Chair Gilles and Board Members:

The Humboldt County Board of Supervisors submitted a comment letter to the Board of Forestry (BOF) regarding the proposed amendments to State Fire Safe Regulations (FSRs) on January 14, 2021. That letter expressed support for efforts to improve the State FSRs to ensure the safety of the public and firefighters and to make clarifications to ensure that implementation is consistent and achievable and the need for exceptions is limited. The letter expressed concern that one size fits all regulations within a State Responsibility Area (SRA), which varies greatly across the state, will have substantial unintended consequences and that the BOF should slow down the rule making process to ensure that the updated FSRs are sensitive to remote, rural areas and can be applied in a nuanced manner consistent with the variable wildfire vulnerabilities found within the SRA throughout California.

On March 15 revised draft FSRs were published and on March 22nd, the BOF initiated a formal rulemaking process with a 45-day timeline. The proposed FSR changes are extensive and have incorporated significant changes over the last two months. While we appreciate that the Board and staff are sensitive to our concerns, this new draft still includes regulations that appear to have substantial impact to land use throughout Humboldt County, especially to “infill” residential development. In particular, prohibiting Building construction on existing parcels accessed by roads not meeting the new minimum standards could have far reaching impacts in Humboldt County. There are over 4,000 miles of existing roads in the Humboldt County SRA, of which the County is responsible for less than a fourth. The County lack’s sufficient road data to determine the degree to which these roads meet the draft FSR existing road standards. It is our understanding that a substantial number of roads do not meet the standards and that our mountainous topography and highly erodible soils would lead to immensely costly upgrades as a condition of building a single residential unit - at the property owner's expense.

The development thresholds established in Section 1273(c) require upgrades to existing roads or driveways whenever three or more parcels are created, or there is a change in zoning or use permit that increases intensity or density. As written, requirements could be triggered by the subdivision of open space land for the managed production of resources (exempted from certain requirements in Section

66474.02 of the Subdivision Map Act), or an intensification in use that results in the addition of even one person, resulting in disproportionate improvement costs. It is recommended the language be revised to clearly define a measure of effectiveness standard (e.g., level of service), or the desired outcome so that de minimus increases in intensity or density can be exempted from the regulations.

In addition, the use of distance to a Collector Road in the proposed definition of Access is highly burdensome for rural development. It will trigger significant improvements to public roads, including roadways established and accepted by Humboldt County and other local jurisdiction decades before minimum fire safe regulations were in effect. Humboldt County agrees with the Napa County proposal that Access be redefined as: "The Roads on a route from a Building to the nearest public Road." Also, Wildfire rebuilds appear to be exempted in Section 1270.03, but appear to be prohibited if existing road standards cannot be met. Prohibiting wildfire rebuilds could have devastating impacts on families and existing communities.

These extensive changes to FSRs have been proposed within a tight timeframe which has not allowed the County to determine how these regulations will affect infill development in the County's existing communities or rural areas. BOF staff have acknowledged that the full impacts of the regulations are unknown, and that additional information is needed. In spite of this lack of information, the rule making process is underway. We are very concerned about the unintended consequences of these new standards. Humboldt County has spent years developing a program to bring legacy unpermitted construction into conformance with building standards. These new regulations will no doubt create a further disincentive for rural owners to obtain building permits.

We appreciate BOF's desire to move forward with all deliberate speed and understand that the current FSR will become applicable to portions of the Local Responsibility Area on July 1, 2021. Many counties have been administering those regulations in the State Responsibility Area for years and can apply those well-known rules in the LRA for a few more months without difficulty. Those existing provisions could indeed benefit from updating, if done deliberately – but no provision of the governing law, nor any state policy mandates that BOF act in haste. The proposed changes to the Fire Safe Regulations are lengthy, complex, and far-reaching, yet the BOF is poised to make a decision on a proposal that was first released in draft form December 1, 2020, less than four months ago and has evolved considerably. Our Public Works and Planning and Building staff have been working with RCRC and participating in coordination meetings with BOF. However, not enough progress has been made to date on getting a workable update to FSR. We urge BOF to take the necessary time to truly partner with local governments and allow a robust discussion with all interested parties to support the development of balanced and responsible fire measures designed to protect our vulnerable communities rather than eliminate them.

Sincerely

Virginia Bass, Chairperson
Humboldt County Board of Supervisors

CC: Humboldt County Board of Supervisors
Matt Dias, Executive Director, Board of Forestry
Wade Crowfoot, Secretary, Natural Resources Agency
Rhys Williams, Senior Advisor on Emergency Preparedness and Management, Office of the Governor
Edith Hannigan, Land Use Planning Manager, Board of Forestry
Senator Mike McGuire

Assemblymember Jim Wood