



COUNTY OF HUMBOLDT

For the meeting of: 4/20/2021

File #: 21-417

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Departmental

SUBJECT:

Comment Letter Regarding March 15 Draft of California Board of Forestry 2021 Amendments to the State Fire Safe Regulations

RECOMMENDATION(S):

That the Board of Supervisors:

1. Consider the draft comment letter regarding California Board of Forestry (BOF) 2021 Amendments to State Fire Safe Regulations in Attachment 1;
2. Receive public comment;
3. Revise the comment letter as necessary;
4. Authorize the County Administrative Officer to modify the letter in a manner consistent with the County's position expressed elsewhere in the letter to address changes in the proposed State Fire Safe Regulations that may be subsequently approved by the BOF; and
5. Authorize the Chair of the Board to sign and send the final letter to the Board of Forestry after the rulemaking has officially begun.

SOURCE OF FUNDING:

Funding to support preparing this staff report is included in the General Fund contribution to the Long-Range Planning unit, 1100-282

DISCUSSION:

The state Board of Forestry (BOF) is proposing to update the State Fire Safe Regulations (FSRs) that apply in State Responsibility Areas (SRA), which covers more than 2/3^{rds} of Humboldt County. A staff report for the January 12th Board of Supervisors agenda contained background information regarding FSRs, described the characteristics of SRA in Humboldt County, and provided details regarding the implication for development in the unincorporated area of Humboldt County within SRA. The staff report noted that among the proposed changes were a reduction to the maximum dead end road length

and a requirement that all development, including the construction of a new home on a legal lot, be required to upgrade all roads serving the parcel to meet FSR standards (including dead end road requirements).

The Board reviewed the January Draft State FSRs, considered how the changes may impact development, and approved a comment letter to the BOF, which was transmitted on January 14th (linked here: <https://calfire.app.box.com/v/firesaferegulations2021/file/774494909423>). The Rural County Representatives of California (RCRC) in partnership with the California State Association of Counties (CSAC) is providing support to counties in the review of the proposed regulations and coordinating input by counties. The County also received assistance from the UC Agricultural Extension.

On March 15th, the BOF released a second FSR draft and held a public hearing on March 22nd initiating an official rule making process (linked here: https://bof.fire.ca.gov/media/igef55jf/full-4-b-state-minimum-fire-safe-regulations-march-15-draft_with-errata.doc.)

The revised draft addressed some of the County's initial concerns. However, the proposed regulations now contain standards for "existing" roads (14 foot width, turnouts every 400 feet, less than 50% of road surface may be native materials, and slopes may not exceed a grade of 25% over a distance of 500 feet) and a prohibition on development where these standards are not met.

There are over 4,000 miles of existing roads in Humboldt County SRA, and most of them occur on private property; the County maintains less than 1,000 miles of those roads. The County lacks sufficient data to determine the degree to which these roads meet the draft FSR standards, however staff believes a substantial number of roads would not meet these standards, which could lead to costly upgrades as a condition of building a single residential unit - at the property owner's expense.

With the short timeline for comments on the March FSR draft, Supervisor Bohn submitted a comment letter to the BOF for their March 22 public hearing, referencing the content of the BOS January comment letter and adding specific input relating to the proposed changes in the March draft. Staff have since learned that any comments received prior to commencement of the rule making process will not be considered as a part of the rule making record.

Given this, staff recommends the Board consider submitting a comment letter on the FSRs that will be a part of the official record of the BOF rule making process. A draft comment letter to the BOF is included as Attachment 1. This letter makes clear that the proposed FSRs could have substantial unintended consequences, that the BOF should slow down the rule making process to ensure the updated FSRs are scaled to address remote, rural areas, and to ensure they can be applied in a nuanced manner consistent with the variable wildfire vulnerabilities found within the SRA throughout California.

As of April 12, 2021, the Board of Forestry has not officially begun the rulemaking process. The rulemaking process for the March 22 Draft could begin any day, or the BOF could consider the FSRs

at its next meeting and approve modifications and initiate the rule making process immediately thereafter. Given the tight timeframe for providing comments and the potential for new language to appear in the draft FSRs, staff recommends the Board's comment letter not be dated or transmitted until after the rule making process begins, and the Board should provide flexibility to the County Administrative Officer to make modifications to the letter to address changes in the FSRs that may be subsequently approved by the BOF. Any changes made by the County Administrative Officer would be consistent with the County's position elsewhere in the letter approved by the Board.

FINANCIAL IMPACT:

If the currently proposed FSR's are approved by the Board of Forestry, development costs in rural areas, particularly remote rural areas are expected to increase due to the new road standards. The proposed letter is intended to convince the BOF to modify the proposed rules to reduce the financial impact of the proposed new standards while addressing public safety concerns related to wildfires.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by creating opportunities for improved safety and health and protecting vulnerable populations.

OTHER AGENCY INVOLVEMENT:

Planning and Building staff coordinated closely on this topic with the Department of Public Works, the UC Agricultural Extension, and the County Administrative Office as well as a sub-committee of the Humboldt County Fire Chiefs Association and the California Department of Forestry and Fire Protection.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to not send the draft letter and rely instead on input from CSAC and RCRC.

ATTACHMENTS:

1. Draft Comment Letter to the Board of Forestry

PREVIOUS ACTION/REFERRAL:

Board Order No.: H-3

Meeting of: January 12, 2021

File No.: 21-53