



May 27, 2022

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

Transmittal Via E-Mail: PublicComments@BOF.ca.gov

**RE: “State Minimum Fire Safe Regulations, 2021”
15-Day Revisions Published May 10, 2022– Formal Comments**

Dear Chair Gilles and Board Members:

The Rural County Representatives of California (RCRC), California State Association of Counties (CSAC) and the Urban Counties of California (UCC) appreciate the approach that the Board has taken with this most recent set of revisions to the “State Minimum Fire Safe Regulations, 2021.” Narrowing the scope of these proposed regulations to those items specifically required by Senate Bill 901 (2018) will allow the Board to achieve compliance with the governing statute, while providing more time to address broader concerns regarding development standards in high fire risk areas.

As the recent rulemaking proceedings have demonstrated, improving fire safety standards, and adapting land use planning to the “new normal” of recurrent wildfire in California, will require careful balancing of many competing public policy priorities. This balance will be best achieved through a deliberate, collaborative process based upon open dialogue and partnership between the Board and local jurisdictions. State and local agencies share responsibility for fire safety, and likewise share an interest in updating

Chair Gilles and Board Members

“State Minimum Fire Safe Regulations, 2021”

15-Day Revisions Published May 10, 2022– Formal Comments

May 27, 2022

Page 2

and improving our development standards in a manner the facilitates, rather than hinders, California’s other critical needs, such as housing and economic development.

Narrowing the scope of the “State Minimum Fire Safe Regulations, 2021” as proposed will provide an opportunity for a fresh start to addressing these matters, and fresh opportunity for state/local collaboration. We urge the Board to adopt the current draft of the “State Minimum Fire Safe Regulations, 2021,” and look forward to working with the Board and its staff on these issues in the forthcoming months.

Relatedly, during the rulemaking process, it has become clear that there is widespread misunderstanding regarding certain aspects of the current SRA/VHFHSZ Fire Safe Regulations. Specifically, many commenters appeared under the impression that the current regulations require improvements to existing *off-site* public roads (i.e., roads outside the parcel or parcels proposed for construction and/or development) as a condition of new development. This is clearly incorrect, as the regulations themselves define the key statutory terms "defensible space" and "perimeter" to make clear that "establishment and maintenance of emergency vehicle access" is expected to occur within "*the area encompassing the parcel or parcels proposed for construction and/or development.*"¹ Further, the rulemaking documents for the 2013 amendments to the SRA Fire Safe Regulations state explicitly that "[t]he Board's regulations *may* also apply to perimeter and access standards outside the boundaries of a parcel or lot as *determined by the local permitting authority.*"² Board materials as recently as 2019 likewise refer to such off-site roads as "existing nonconforming," which "do not necessarily preclude development along the parcels that they serve...[l]ocal jurisdictions, however, may apply stricter standards..."³

We appreciate that the Board cannot provide an interpretation of the current regulations without further formal rulemaking in accordance with the Administrative Procedure Act. However, we request that the Board and its staff refer interested parties to the foregoing existing materials whenever questions are raised, or inaccurate assertions made regarding the scope of the existing regulations.

¹ Cal. Code Regs., tit. 14, § 1271.00.

² Board of Forestry and Fire Protection, Initial Statement of Reasons, SRA Fire Safe Regulations Update, 2011 (Dec. 23, 2011), at p. 2. This conclusion was premised upon a letter from the Attorney General, contained in the rulemaking record, opining that such upgrades are "not a Board nor a Cal Fire problem" and are "a local government decision" that is "up to the local governments to decide based upon all state statutes that may authorize or restrict local government jurisdiction." (Letter from Deputy Attorney General Teri H. Ashby to Chris Zimny, Regulations Coordinator, Board of Forestry and Fire Protection (Mar. 2, 2010), at p. 2.)

³ Board of Forestry and Fire Protection, Final Statement of Reasons, SRA Fire Safe Regulations, 2020 (Mar. 6, 2019), at p. 9.

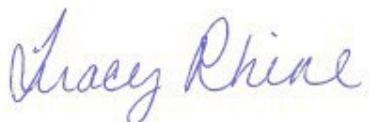
Chair Gilles and Board Members
“State Minimum Fire Safe Regulations, 2021”
15-Day Revisions Published May 10, 2022– Formal Comments
May 27, 2022
Page 3

Thank you for your consideration.

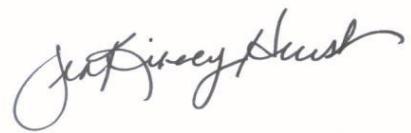
Sincerely,



CATHERINE FREEMAN
Legislative Representative
CSAC



TRACY RHINE
Senior Legislative Advocate
RCRC



JEAN KINNEY HURST
Legislative Representative
UCC