February 3, 2021

To: Board Members

From: Claire McCoy, Wildfire Planning Specialist

Edith Hannigan, Land Use Planning Policy Manager

**Re: Fire Risk Reduction Communities List rulemaking**

# Background

Public Resources Code § **4290.1** is a new section of statute, added in 2019 by AB 1823, that requires the Board to develop criteria for and maintain a Fire Risk Reduction Communities List of local agencies that meet best practices for local fire planning:

# 4290.1.

# (a) On or before July 1, 2022, the board shall develop criteria for and maintain a “Fire Risk Reduction Community” list of local agencies located in a state responsibility area or a very high fire hazard severity zone, identified pursuant to Section 51178 of the Government Code, that meet best practices for local fire planning.

# (b) The board shall consider all of the following when developing the criteria for the list required under subdivision (a):

# (1) Compliance with the board’s regulations, including minimum fire safety standards.

# (2) Participation in the National Fire Protection Association’s “Firewise USA” or the National Wildfire Coordinating Group’s “Fire Adapted Communities” programs.

# (3) Adoption of the board’s recommendations to improve the safety element pursuant to subdivision (b) of Section 65302.5 of the Government Code.

# (4) Recently developed or updated community wildfire protection plans.

# (c) The board shall post the “Fire Risk Reduction Community” list on its internet website.

Public Resources Code § **4124.7** is existing law that mandates the Department of Forestry and Fire Protection to prioritize local assistance grant funding applications from local agencies based on the Fire Risk Reduction Communities list:

4124.7.

(a) The department shall, except for activities described in paragraph (5) of subdivision (c) of Section 4124.5, prioritize local assistance grant funding applications from local agencies based on the “Fire Risk Reduction Community” list, upon development of that list, pursuant to Section 4290.1.

(b) The prioritization required in subdivision (a) shall not affect applications from entities that are not local agencies.

(c) This section shall become operative only if Assembly Bill 1956 of the 2017–18 Regular Session is chaptered and becomes effective on or before January 1, 2019.

# Timeline for Rulemaking and Implementation

Following the February 10 RPC workshop, there will be opportunity for discussion at the March 2 Joint Committee meeting, before bringing this item to the full Board on March 3 for 45-day noticing. Following public comment and any additional noticing as necessary, adoption at or before the August 2021 Board meeting would allow the regulation to take effect by January 1, 2022. This would allow Board staff sufficient time to place communities on the list itself before the statutory deadline of July 1, 2022.

# Draft Rulemaking

Board staff has developed a draft rule plead (item 1(b) in the workshop materials) to meet the mandate of PRC § 4290.1. Staff considered all the criteria required for consideration in PRC § 4290.1, and decided to include some and leave out others for reasons largely related to the feasibility of list maintenance. Staff considered Board comments from its January 12, 2021 RPC workshop and made edits accordingly in a second draft to be presented on February 10.

The second draft regulation is structured to include one set of criteria which a local agency must meet to quality for the List if it is a city, city and county, or county. Those are subdivided into four mandatory and five optional criteria. The mandatory criteria require compliance with the Board’s existing standards for local fire planning. The optional criteria, of which two must be met, demonstrate local fire planning that goes above and beyond state-level minimum requirements.

The second draft includes a separate set of six optional criteria for agencies that are not cities, city and county, or counties, of which two must be met.

The draft regulation allows low-income local agencies, as defined, which are cities, city and county, or counties, to qualify for the list if two or more optional criteria have not yet been met but are included in the safety element of the general plan as policy objectives. Low-income local agencies which are not cities, city and county, or counties may qualify for the list by meeting one of the appropriate optional criteria and including at least one other as an objective in its central planning document. The intent of this is to promote the equitable distribution of local assistance grant funds and avoid potentially advantaging well-resourced communities over those that are more reliant on grant funding.

# Questions for Board Input

In addition to overall feedback, Board staff is seeking input on specific areas of the draft rule plead as follows:

* The definitions of “Local Agency” and “Low-Income Local Agency.”
* The decision to separate criteria by agency type, as well as the selection of criteria themselves
* The structure of how many criteria are required versus optional, how many must be achieved versus plan objectives for Low-Income Local Agencies, and the timeframe required for a criterion to be considered currently met.

We hope this memo provides sufficient background and context for a productive conversation on this topic at the February 10 RPC workshop. Thank you.