

**Board of Forestry and Fire Protection  
Title 14 of the California Code of Regulations**

[Notice Published October 28, 2005]

**NOTICE OF PROPOSED RULEMAKING**

**Defensible Space, 2005**

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

**Adopt:**

**Division 1.5, Chapter 7 Fire Protection, Subchapter 3., Article 3.  
Defensible Space Regulations. § 1299**

**PUBLIC HEARING**

The Board will hold a public hearing starting at 8:00 A.M., on Tuesday, December 13, 2005, at the Resources Building Auditorium, 1<sup>st</sup> Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, December 12, 2005. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9<sup>th</sup> Street  
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[board.public.comments@fire.ca.gov](mailto:board.public.comments@fire.ca.gov)

## **AUTHORITY AND REFERENCE**

Public Resources Code (PRC) 4551 and 4554.5 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4513, 4551.5, 4561 and 21080.5.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The California State Board of Forestry and Fire Protection (Board) is promulgating a regulation necessary to implement a legislative amendment to Public Resource Code (PRC) 4291(b) authorized under Senate Bill (SB) 1369 of 2004. This legislation, among other things, requires persons in State Responsibility Area (SRA) to maintain around and adjacent to a building or structure additional fire protection or a firebreak by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the building or structure or to the property line. The proposed regulation is a "performance standard regulation". It establishes a broad and flexible firebreak clearing objective consistent with the statute. The regulation also includes a guideline reference document, titled "General Guidelines to Implement Performance Based Defensible Space Regulation under PRC 4291". The guideline document describes criteria for conformance with proposed regulation and existing statute. This document is

incorporated by reference pursuant to Title 1, California Code of Regulations (CCR), Regulation General Provisions, Section 20.

## **SPECIFIC PURPOSE OF THE REGULATION**

The purpose of this regulation is to provide guidance for implementing the defensible space criteria of PRC 4291 (a) and (b) and minimize the spread of fire within a 100 foot zone around a building or structure. Specific purposes and necessities of each subsection of the regulation are described below:

- Subsection 1299 (a) identifies the persons and locations that must comply with the regulation. This includes any person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, and is within State Responsibility Area.
- Subsection 1299(a)(1) states the requirements for clearing within 30 feet of the structure are part of the regulation to ensure comprehensive application of all requirements of PRC 4291.
- Subsection 1299 (a) (2) is the “performance standard” that must be achieved for the area within 30 to 100 feet from each building or structure. Establishing this standard is the primary purpose of the entire regulation, pursuant to changes in PRC 4291(b). The standard generally requires disrupting the vertical and/or horizontal continuity of flammable and combustible vegetation with the goal of reducing fire intensity, inhibiting fire in the crowns of trees, reducing the rate of fire spread, and providing a safer environment for firefighters to suppress wildfire.
- Subsection 1299 (b) and (c) provides the fire inspection official the authority to direct removal or modification of any specific fire hazard and work with home owners to approve alternative hazard reduction or fire prevention practices that have the same effect as those stated in the referenced guideline under 1299 (d) and which are consistent with PRC 4291. These subsections add flexibility for the regulated public while ensuring that fire officials retain final authority on determining acceptable implementation of the performance standard regulation.
- Subsection 1299 (d) references a “guidance” document that suggests ways to meet the 14 CCR subsection 1299 (a) (2) 30 feet to 100 feet clearing requirements. The guideline reference document is titled “General Guidelines to Implement Performance Based Defensible Space Regulation under PRC 4291”. It describes criteria that will result in conformance with proposed regulation and existing statute. This document is incorporated by reference pursuant to Title 1 CCR, Regulation General Provisions, Section 20. This guidance document is intended to

instruct persons and fire officials on acceptable ways to obtain compliance with PRC 4291 and this proposed regulation.

The guideline document includes several sections. The sections include an introduction on the purpose of the guideline (Section A.); Definitions (Section B.); and fuel treatment guidelines that help describe effective hazard reduction treatments (Section C.).

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: The regulation will not result in a fiscal impact to the State. While the regulation will impose on the California Department Forestry and Fire Protection (CDF) more intensive inspection requirements, fire engine staffing increases for southern California in this year's budget will help offset inspection costs. Additionally, CDF hopes to offset inspection costs by developing an education outreach program to assist in homeowner compliance, further reducing the need for intensive inspections.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Board estimates there is a cost impact on representative private persons or businesses from implementation of this regulation in the short term due to vegetation clearing around structures. These costs will be incurred by homeowners and business with structures in SRA. These initial costs will be offset or result in an unspecified economic benefit to the regulated public due to reduced losses to property and life resulting from implementation of the fire hazard reduction around homes, and have a net zero-dollar economic impact.
- Significant effect on housing costs: None

- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: The Board has determined that the proposed amendments will not have an adverse affect on small business.
- The proposed rules do not conflict with, or duplicate Federal regulations.

## **BUSINESS REPORTING REQUIREMENT**

The regulation does not require a report, which shall apply to businesses.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code 11346.5(a) (13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone (916) 653-5602.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

[http://www.fire.ca.gov/BOF/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

A handwritten signature in black ink that reads "Christopher Zimny". The signature is written in a cursive style with a large initial 'C' and 'Z'.

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Christopher Zimny  
Regulations Coordinator  
Board of Forestry and Fire Protection

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