

Board of Forestry and Fire Protection

Defensible Space 2005

14 CCR 1299

Public Comment and Preliminary Responses

Last edit: 12/9/05

Executive Summary

Potential Regulation/Guideline Changes

Below are the potential proposed changes to the regulation, Guidelines and Initial Statement of Reasons based on public input. Revision recommendations generally address changes for clarity and enforceability, cost impacts, environmental impacts, and CEQA compliance:

- 1. Provide direction for spacing requirements for “groups” of vegetation. (Comment L1- 11, L 10-16)**
- 2. Minimize economic hardship by adding lower cost prescriptions that meet hazard reduction goals (edit 4b). (Comment L1- 16, L 10-16)**
- 3. Address conflicting local ordinances that have differing clearing standards. (comment L5-5, L15-4)**
- 4. Include picture or graphic of completed Chaparral setting. (Comment L5-10, L30-7)**
- 5. Edit definition of “Fuels” in the guideline for 4291(a) within 30 feet. Consider SB 502 consistency. (Comment L5-11, L17-1/2, L13-1)**
- 6. Replace graphic of tree stocking on page 8 of Guidelines. (Comment L7-1)**
- 7. Add mitigation for TES protection, snags retention, WLPZ/riparian vegetation protection, Scenic Highways and archeological resources to rule file and or regulation to ensure environmental protection and for better CEQA compliance. (Comment L8-4, L14-5/6/8, L26)**
- 8. Various grammatical and organizational text edits. (Comment L 9-1 to 25)**

9. **Guidelines § A, paragraph 3, 2nd bullet (4 to 40 feet separation in all directions) is impossible and impractical consider removal of bold text in bullet. (Comment L10-10)**
10. **Address in Guidelines § A, paragraph 3, 4th bullet, clearing requirements for owners who own the adjacent vacant lot. (Comment L10-11)**
11. **Address clearing responsibilities on Rights of Ways (roads). (Comment L14-7)**
12. **Address non native plants resulting in permanent colonization. (Comment L14-16)**
13. **Address homeowner responsibility for other applicable laws (ESA, air quality cultural, WDR).**
14. **Amend to be more specific that rule does not apply to governmental entities. (Comment L24-2)**
15. **Amend regulation and Guideline definition to address flammability interpretations. (Comment L25-1)**
16. **Address CEQA issue of declaration of project as a “Categorical Exemption. (Comment L26-3/7)**
17. **Evaluate and add technical documents related to cost, environmental effects, necessity for canopy treatments, affected geographic setting to record. (Comment L26-7/8, L30)**
18. **Need to address “Take” determination based on potential adverse habitat modifications to TES species. (Comment L26-10)**
19. **Need to address large woody debris recruitment. (Comment L26-16)**
20. **Need to address definition of “ladder fuels”. (Comment L29-3, L30-3)**
21. **Need to address definition of “flammability and combustible growth”. (Comment L30-4)**
22. **Clarify graphic in Guidelines Option 4a. for spacing between trees; should be 10’ to 30’. (Comment L30-5)**

Comments and Responses

Comment L 1-1

Comment type: Strict spacing requirements is excessive

BOF response: Spacing requirement in reg is necessary to prevent spread of fire and is tailored to likely heat intensity produced by varying sizes of material. See plant spacing guides. Additionally, Option 4b. does not require tree spacing.

Rule Text Edit: No

Comment L 1-2

Comment type: Do not require complete vegetation removal. Retain smaller shrubs.

BOF response: Vegetation spacing requirement in reg permits retention of vegetation.

Rule Text Edit: No

Comment L 1-3

Comment type: Use SPLAT instead of 100' zone.

BOF response: Beyond scope of underlying legislative and regulatory authority.

Rule Text Edit: No

Comment L 1-4

Comment type: Spacing guidelines should not require strict spacing requirements; should be site specific.

BOF response: Guidelines permits retaining trees (Option 4b.) and reg allow alternative prescriptions agreed upon by fire official.

Rule Text Edit: No

Comment L 1-5

Comment type: Studies show that removing dense ground fuels and separation of ladder fuel is sufficient to reduce heat intensity and avoiding spread. Also thinning is unwise as it increases sunlight penetration decreasing humidity and increasing brush growth.

BOF response: Guidelines permits retaining trees (Option 4b.) and reg allow alternative prescriptions agreed upon by fire official. When Option 4a is used (trees are spaced 10-30 feet) adequate canopy cover is usually retained (particularly in the less than 20 feet spacing setting) that minimizes brush encroachment. However the Board agrees that wider tree spacing will result in additional brush encroachment and more routine brush removal maintenance. Using Option 4b. diminishes this concern, as all overstory larger trees can be retained.

Rule Text Edit: No

Comment L 1-6

Comment type: Local Tree Ordinance require permit for cutting trees reducing chance of removal many large trees.

BOF response: Guidelines recognize need for adhering to gaining necessary permits. Local ordnances may not supercede 4291law

Rule Text Edit: Possible; need legal interpretation.

Comment L 1-7

Comment type: Spacing guidelines for trees result in too much space between smaller trees.

BOF response: Small tree should be treated as small aerial fuels in guidelines, if it results in lesser spacing.

Rule Text Edit: no

Comment L 1-8

Comment type: Vertical spacing guidelines for small trees are less of an issue than horizontal spacing issue in comment 1-7.

BOF response: Agree with comment.

Rule Text Edit: no

Comment L 1- 9

Comment type: Supports using 3x veg height as vertical spacing guidelines instead of fixed pruning height.

BOF response: Agree with comment.

Rule Text Edit: no

Comment L 1- 10

Comment type: In less tall canopy setting, should not have strict spacing guides.

BOF response: Fuel spacing is required in all veg setting to reduce fire spread and heat intensity.

Rule Text Edit: no

Comment L 1- 11

Comment type: Spacing requirements should allow for space between “groups” of vegetation.

BOF response: Allowing groups of vegetation to be used for spacing guidelines appears to be a reasonable accomplishment of the regulation performance goal. The Board should consider text in the guidelines addressing this.

Rule Text Edit: Possible; should consider how guide applies to groups instead of single specimens.

Comment L 1- 12

Comment type: Spacing requirements should be different for different geographical setting

BOF response: Performance based regulation allows unique prescription to be conducted when approved by a fire official; It is not possible for a statewide regulation to prescribe vegetation treatments for every unique fuel setting throughout California.

Rule Text Edit: no

Comment L 1- 13

Comment type: Limit use of herbicides under pruned trees

BOF response: Regulation does not address the means used to remove vegetation other than state the necessity to comply with existing laws and other permitting requirements to complete the clearing. CDF does not enforce herbicide application.

Rule Text Edit: no

Comment L 1- 14

Comment type: Maintenance alternatives to herbicides should be cutting/removal or grazing.

BOF response: see1-13

Rule Text Edit: no

Comment L 1- 15

Comment type: Use SPLATS when possible

BOF response: see1-3; Board supports concept of incorporating low fuel areas into over treatment prescription when within 100 ft distance. Use of low fuel areas within 100 ft is a common sense measures not needing repeating in guidelines.

Rule Text Edit: no

Comment L 1- 16

Comment type: Enforcement of wider defensible space requirement will be an economic hardship.

BOF response: CDF recognizes that cost to homeowners could be substantial in some cases. The use of performance standards to provide flexibility for landowners to achieve adequate defensible space while minimizing cost is included in the regulation. Also, CDF should evaluate different fire behavior models to determine the minimum level of fuel treatment necessary to achieve hazard reduction goals. As such models reveal specific permissible standards, such prescriptions should be added to the guidelines as complaint treatment that can result in minimizing costs.

Rule Text Edit: **Possible; follow up is needed on lower cost prescriptions that meet hazard reduction goals.**

Comment L 1- 17

Comment type: Strict interpretation of 4291 wording will result in more logging of large trees as a means to offset hazard reduction costs.

BOF response: Board agrees that strict interpretation of PRC 4291 would result in unnecessary tree and vegetation clearing, and has created regulation to specifically address this concern.

Rule Text Edit: no

Comment L 2- 1

Comment type: Make 4290 consistent with 4291 clearing requirements.

BOF response: Beyond scope of regulation.

Rule Text Edit: no

Comment L 2- 2

Comment type: See attached document that describes how to create defensible space; it is not a bare earth policy;

BOF response: Board considered this document in its technical evaluation and incorporated standards from into the proposed guidelines.

Rule Text Edit: no

Comment L 3- 1

Comment type: Use existing regulatory definitions for “defensible space”

BOF response: Board agrees and added this to proposed regulation already. However, the defensible space definition has been identified by the general public to be confusing and should be reconsidered by the Board.

Rule Text Edit: see L9-1

Comment L 3- 2

Comment type: Use existing regulatory definitions building and structure”.

BOF response: Board agrees and added this to proposed regulation already.

Rule Text Edit: no

Comment L 4- 1

Comment type: Wants proposed reg to state must have 100 foot clearing to property.

BOF response: Board agrees and added this to proposed regulation already.

Rule Text Edit: no

Comment L 4- 2

Comment type: Guideline adequately covers nearly every scenario of what and how much to cut.

BOF response: Board agrees and recognizes that this is an important goal to the regulation and guideline.

Rule Text Edit: no

Comment L 4- 3

Comment type: Clearing 100 feet should allow clearing onto public agency property to accomplish 100 ft clearance from private building.

BOF response: Law requires clearing to extent of property line if that distance is less than 100 ft. Adjacent land owners are not required to clear adjacent property that fall with 100 ft of their building.

Rule Text Edit: no

Comment L 5-1

Comment type: Can we/should proposed regulation be modified to require a landowner to clear his/her property to the extent it is within 100 ft of a neighbor's structure?

BOF response: This suggestion is beyond the scope of 4291 requirements, but there seems to be a need to address this issue as part of a review of the adequacy of PRC 4290/Regulation sections of 14 CCR 1270 for fire protection.

Rule Text Edit: no

Comment L 5-2

Comment type: Are there insurance-related implications for this regulation? For instance, does the power of the inspector to approve alternative practices create a liability issue?

BOF response: Insurance requirements are private business agreements not directly related to these proposals.

Rule Text Edit: no

Comment L 5-3

Comment type: If there are exceptions for ornamental specimens, as there should be, they do not appear to be contained within the text of the proposed regulation.

BOF response: The guidelines under 4a. state that one method to comply with 4291 and our new reg 1299 is to provide space between retained plants. Essentially, many individual specimens may be left if separated to reduce continuity of fuels. This is consistent with 4291 language that single specimens of ornamentals may be retained.

Rule Text Edit: no

Comment L 5-4

Comment type: It would seem that there would be significant public benefit if there existed an appeals process that was not as fully dependent upon the courts, given that going to court no doubt creates significant additional costs both for the state and the property owner. Given the BOF's lack of staff to handle appeals, can some alternate dispute resolution system be devised within existing statutory and budgetary authority?

BOF response: The current de facto appeals process is a person "appealing" to the Unit Chief to resolve disputes between the CDF inspector and the home owner.

Rule Text Edit: no

Comment L 5-5

Comment type: Issues about county ordinances superceding 4291 clearing requirements.

BOF response: 4291 statute and similar regulation under 14 CRR 1270 seem to indicate that clearing requirements that exceed those established by the State can be adopted by local agencies. No indication that locally adopted ordinances requiring lesser clearing standards superceded State requirements. Guideline changed to state that local ordinances may require tree removals permits. Consider editing Guidelines to address conflicting clearing ordinances.

Rule Text Edit: Possible

Comment L 5-6

Comment type: 4291 (a) requirements should be incorporated into this guidance document.

BOF response: Proposed regulation and guideline are aimed primarily at addressing 4291 (b) requirements. Some mention of necessity to comply with 4291 (a) is in the current regulation and guideline, as this is a criterion necessary for evaluating compliance with the proposed 4291 (b) performance goal (i.e. Compliance of the 4291 (b) regulation includes complying with 4291 (a)). Recommendation is to ensure the full suite of 4291 (a) and (b) requirements are included in the “educational documents” produced by the BOF or Department following adoption of the proposed regulation.

Rule Text Edit: no

Comment L 5-7

Comment type: Incorporate clarification of clearing requirements limit of 100 feet or owner’s property boundary.

BOF response: Added to proposed guideline prior to 45-Day notice.

Rule Text Edit: no

Comment L 5-8

Comment type: Incorporate mowing before 10 am as recommended treatment method.

BOF response: Proposed guideline already includes substantial precaution on use of mowers.

Rule Text Edit: no

Comment L 5-9

Comment type: Is there a governing body or another way to arbitrate the non compliance issue, other than the existing penal/court process? Suggestion was to have the BOF serve as the arbitrator. Another option to better utilize the current system where the Unit Chief will likely resolve issues with the courts being the final destination for unresolved issue.

BOF response: Use of BOF as arbitrator is currently beyond the personnel capacity of the Board.

Rule Text Edit: no

Comment L 5-10

Comment type: Some sample graphic are necessary, to make it intuitive. Need a hand out because this is complicated.

BOF response: Additional pictures of completed defensible space work for each vegetation type is being worked on and will be included in the Noticed proposed regulation. Also include in the “educational documents” produced by the BOF or Department following adoption of the proposed regulation graphics and simplified interpretations of the proposed regulation and guidelines. One possible educational option is to update the typical “Living with Fire: Guideline for the Home Owner” documents produced and distributed by Fire Safe Councils which are widely distributed.

Rule Text Edit: **Yes; need picture of completed Chaparral setting.**

Comment L 5-11

Comment type: Add more clarification in the definition of “Fuels” in the guideline about fuels within 30 feet. Current definition implies that non vegetation fuels (wood piles, fences) are not fuels relative to 4291 (a). Either remove all discussion of non vegetation fuels or add together in descriptions contained in 30’-100’ 4291 (b).

BOF response: Suggest we do not elaborate on 4291 (a) requirements in this proposed regulation. But we should ensure in the "educational documents" the meaning of fuels relative to 4291 (a) verses 4291 (b).

Rule Text Edit: Possible

Comment L 5-12

Comment type: Related issue will be air pollution control/ pollution due to compliance requirements.

BOF response: Environmental impacts of the regulation are disclosed. Evaluation and mitigation included, if necessary, will be part of the BOF rulemaking process. Recognition that this regulation will likely increase burning and associated pollution, but has to be done in compliance with existing ARCB, local pollution control districts, and CDF burn permitting laws and regulations. Also, we will add the local pollution control districts to the list of persons being informed of this proposed regulation to get their input on the level of this concern and any additional mitigation requirements.

Rule Text Edit: no

Comment L 5-13

Comment type: Unclear about what a structure or building is.

BOF response: Definition added by paraphrasing definition used in Health and Safety Code statues related to construction activities. The California Building Code might also have a better definition. Also see L3-2

Rule Text Edit: no

Comment L 5-14 and 5-15

Comment type: Rules need to be clear and concise and not conflict between state and local ordinances.

BOF response: Likely State laws can be superceded when local laws are more protective. Conflicts between Sate laws, such as ESA and PRC 4291, need opinion.

Rule Text Edit: **Possible**

Comment L 6-1

Comment type: Draft Guidelines, Page 4, Section A Purpose of Guidelines I don't understand what is meant by the last sentence in the 2nd paragraph. "Fuel reduction through vegetation management is the key fundamental to creating defensible space."

BOF response: Means removing vegetation is fuel reduction and is important to creating defensible space around a home.

Rule Text Edit: no

Comment L 6-2

Comment type: Draft Guidelines, Page 6 General Guidelines under L4, 4th paragraph where is states that "Grass generally should not exceed 4 inches in height. However, grass and other forbs may be maintained less than 18 inches in height....." I presume, as we have traditionally applied, that the 4" grass height is applied within the 30 ft zone. Does the 18" limitation apply within the Reduced Fuel Zone (30 to 100')? I think that this paragraph should be further detailed/explained.

BOF response: 4 inch grass limitation should be applied in all 0 to 100 ft zone. 18 inch grass may be retained in 30 to 100 ft zone as stated.

Rule Text Edit: no

Comment L 6-3

Comment type: Page 9, Section 4b. Reduced Fuel Zone the 2nd bullet point states "remove lower limbs of trees ("prune") to at least 6 feet up to 15 feet (or the lower 1/3 branches for small trees)....." The diagram "Defensible Space retaining continuous trees" used as an example for 4b is not realistic for the context. The diagram represents an even aged stand of mature trees and not the typical uneven aged stand of mixed conifers common to California, especially the Sierra Nevada's. I would suggest a better graphic showing an uneven aged stand with small trees limbed 1/3 tree height or 6-15 ft whichever is greater, and mature trees limbed at least 15 feet of vertical separation. Futhermore, the vertical separation should be above the height of the underlying vegetation; i.e. if a grass understory of 3' the limbing height should be 9'. Most research and guides recommend pruning 3 times the height of the underlying vegetation.

BOF response: These are the requirements in the guideline under 4a.

Rule Text Edit: no

Comment L 7-1

Comment type: After reviewing the Proposed General Guidelines to implement the Performance Based Defensible Space Regulations, I think the confusing part is the graphic of tree stocking on page 8. I'd recommend looking at the attached paper PNW GTR-463, as I believe it has better examples pre & post stand conditions, and the situations we are trying to convey to the public.

BOF response: Board will consider adding this graphic.

Rule Text Edit: **Possible**

Comment L 8-1

Comment type: Although I support efforts to reduce catastrophic fires, I am opposed to the regulations or mandates as appear to be contained in PRC4291 and 14CCR2291 (which may have originated from SB1369). As a homeowner, I accept the risks of wherever my home is—a floodplain, earthquake fault, non-compliant air pollution area, contaminated ground water zone, fire hazard, etc. The risks should be dealt with (reduced) at the land-use, zoning, and permitting stage, not after the structures have been established.

BOF response: Board agrees that land use planning is one of the necessary planning tools to address fire hazard reduction and the associated affects to citizens, natural resources and fiscally prudent fire protecting activities. Technical information provided to the Board support the importance of creating defensible space to accomplish defensible space goals and the requirements of the PRC 4291.

Rule Text Edit: no

Comment L 8-2

Comment type: To have public agencies prepared to use precious resources to monitor and/or maintain “defensible space” is unrealistic and unacceptable. The scarce public resources should be directed to (a) establishing strict rules and regulations to issue (or NOT) building permits, (b) identifying and requiring fire-proof or fire-resistant building materials, and (c) educating the public regarding fire reduction practices. If the goal of these “defensible space” proposals is indeed to reduce the probability and possibility of catastrophic fires or wildfires, then at the permit level, the first “line of defense” is where the proposals will cause the least disruption and hardship, and will be the most effective.

BOF response: See L8-1

Rule Text Edit: no

Comment L 8-3

Comment type: To expand the mandate/recommendation from 30 feet to 100 feet should require a thorough review under the California Environmental Quality Act (CEQA) and possibly under NEPA. I am requesting both an Environmental Impact Report (EIR) as well as an EIS. The public should be noticed and encouraged to participate in these regulations/recommendations before any are adopted.

BOF response: The California Environmental Quality Act (CEQA) requires review, evaluation and environmental documentation of potential significant environmental impacts from a qualified project. The Board's rulemaking process was determined to be categorically exempt from environmental documentation in accordance with 14 CCR 1153(b) (1), Declaration of Categorical Exemptions. Landowner implementation of the regulation is not a CEQA project because there is no government permit or funding associated with the activity. The Board's rulemaking process is a certified functional equivalent to an EIR. As such, it requires public participation. The schedule hearing, notice announcement, public comment period and responses serve this requirement.

Rule Text Edit: no

Comment L 8-4

Comment type: To “clear” 100 feet of space, according to the proposals, would devastate wildlife habitat (both avian and mammalian), cause irreparable watershed damage (run off, pollution, etc.), and create “moonscapes” from which native vegetation may never recover. Please study, investigate and provide realistic, workable alternatives to bring wildlife and other environmental impacts to less than significant.

BOF response: General evaluation of potential significant impacts indicates that significant impacts are unlikely as these projects affect limited area around existing homes. Such areas generally do not contain substantial areas of native habitats with valuable quantities of habitat components, cultural sites, or beneficial uses of water. The nature of maintenance work conducted under these regulations consists of minor alterations to vegetation and removal for the purpose of maintaining native growth around residential structures.

Analysis of potential significant environmental impacts has identified several resources that may be potentially affected as the follows:

Water Quality: Projects conducted under this regulation can result in vegetation clearing near streams and watercourse areas. One concern with vegetation removal around watercourses is reduction in stream water temperature due to reduction in riparian vegetation and overstory tree shade. Recommended guidelines for clearing will typically result in only minor amounts of large vegetation being removed, as the specifications suggest retention of well-spaced shrubs and trees, and focus on removing smaller vegetation. Another concern is soil erosion into watercourses. To mitigate this potential impact, the guidelines permit ground litter to be retained to provide protective soil cover and avoid erosion.

In cases where hazard reduction is conducted in locations where larger trees are being removed and utilized for commercial purposes, the California Forest Practice Rules (FPRs) include requirements to minimize environmental effects. These practices have been determined to be effective in avoiding significant adverse environmental impacts. Such requirements as general prohibition of operations in stream courses, no new road construction, and prohibition of operation on steep slopes are likely to minimize or eliminate impacts of the project on water quality. Generally, projects conducted in compliance with PRC 4291 have been determined by the Regional Water Quality Control Boards as acceptable for a “Categorical Waiver” from a waste

discharge permit. This indicates the low level of expected impacts to beneficial uses of water likely to result for these operations.

Fish, wildlife, and plant habitat: The projects are expected to create minor disturbance to the ground cover and understory components of the several forested, shrub and grassland habitats. The projects are intended to affect the understory components of vegetation cover, with lesser changes to overstory conditions. As such, in consultation with the Department of Fish and Game, primary concern is the understory habitat requirements. Overstory forested canopies are expected to remain intact, with little to no change in the California Wildlife Habitat Relationship size and density classification.

Understory forests conditions and ground cover conditions are expected to be modified by the project. Recommendations are incorporated in the guideline document to incorporate actions that minimize the affects to understory vegetative and special wildlife habitat elements (down logs). Such measures include retaining limited down large woody debris to maintain and enhance wildlife values, and retain screening to provide cover and shelter for wildlife. Finally, for larger scale forest operations that remove trees for commercial purposes, the FPRs contain operational requirements that have been determined to be effective in avoiding significant adverse environmental impacts to biological resources.

Public concern has been raised during the formulation of the regulation regarding conflicts between fuel hazard reduction requirements and habitat protection or State/Federal Endangered Species Act requirements. Existing endangered species laws are relevant to the action proposed and require compliance. However, many southern California local entities that have experienced catastrophic fire and significant losses to homes have negotiated Memoranda of Understanding (MOUs) or other agreements that recognized the necessity of establishing defensible space around homes as a key component to reducing wildfire and protecting species and habitat. As a result, individual MOUs and other agreements provide wildlife "take" permits to facilitate completion of the fuel hazard reduction work were critical habitat is located in the clearing areas. This cooperation demonstrates the importance of the hazard reduction towards avoiding significant impacts to biological resources and the relatively low level of risk associated to direct impacts to biological resources from the clearing projects.

Aesthetic setting: The nature of the projects includes removal of understory vegetation that often acts a visual screen between houses or other human occupied space (roads, commercial building etc.). Loss of the screening can result in undesired visual effects on those residents in wildlands areas that value the remote setting. Key to the mitigation process will be developing fuel hazard reduction prescriptions which reduce visual impacts while meeting the hazard reduction objective. With the guideline providing options for

incorporating screening elements via leaving well spaced vegetation and continuous overstory canopies, opportunities to mitigate impacts to aesthetic settings are provided.

The Board has incorporated the above mitigation measures to eliminate or substantially lessen to a level less than significant the potential adverse effects on the environment. Together, the standard provisions of the Forest Practice Rules and the unique protective requirements of this regulation are expected to provide an insignificant level of environmental impacts.

Rule Text Edit: Possible. Consider changes related to TES protection, snags retention, and WLPZ treatment.

Comment L 8-5

Comment type: As written “It does mean arranging the tree, shrubs and other fuels sources in a way that makes it difficult for fire to transfer from one fuel source to another” is a disingenuous statement that attempts to make one believe that fire is predictable. For structures in the most “fire-vulnerable” locations, fire paths cannot be predicted to the degree of detail this statement suggests.

BOF response: The statement is found to be correct and true that rearranging fuels make it difficult to transfer fire between fuel sources. The Board agrees that fire is random and difficult to predict its point of ignition or path, but it is very predictable in that it needs fuel, oxygen and heat to combust and known areas have higher fire frequency than others and terrain affects the spread of fire.

Rule Text Edit: no

Comment L 8-6

Comment type: Please create an advisory committee that consists of citizens as well as community leaders to evaluate the fuel loads of their area as well as the degree of risk the community/individual is willing to accept with regard to fire transfer issues.

BOF response: Public involvement in advisory committees is valuable to focus community risk assessment and establish priorities, among other things. Ample opportunities are found for this evaluation in local areas. Existing laws cannot be superceded by such evaluation.

Rule Text Edit: no

Comment L 8-7

Comment type: In addition, as alluded to in the proposal, every landscape is unique; the 100 feet of defensible space is an egregious “one-size-fits-all” unworkable attempt to reduce a risk that will need annual (if not biannual) laborious effort and create unnecessary hardship. Please consider abandoning any measurable defensible space criteria and concentrate on structure defense criteria instead (which should emphasize fire retardant building materials, land use, zoning, etc).

BOF response: See L1-4 and L 8-1

Rule Text Edit: no

Comment L 8-8

Comment type: The statement “Fuel reduction through vegetation management is the key fundamental to creating defensible space” is not necessarily true. It is only one component. The key is in the type of building materials. I believe this has been proven repeatedly in wildfires in southern California. Please change the focus from “defensible” to “fire-reducing practices” including a mandate to require the use of fire-retardant materials.

BOF response: See L 8-1

Rule Text Edit: no

Comment L 8-9

Comment type: Any proposal or recommendation is incomplete unless it addresses public warning and evacuation procedures. These proposals, if adopted as they are stated, could instill a false sense of security and result in great loss of life and property to the public. Please address evacuation procedures, including mandatory pet and animal protection. Please consider mandates that forbid pet or animal abandonment in the event of a catastrophic fire. Please provide “defensible agricultural animal” evacuation procedures to include any type of animal confinement facilities—fencing or structures.

BOF response: Evacuation s produces are particular important to the overall fire protection plan for a community. Such procedures are beyond the scope of the underlying law and proposed regulation.

Rule Text Edit: no

Comment L 8-10

Comment type: Please consider legislative review and modification of SB1369.

BOF response: While not a specific rule proposal edit, this alternative has been considered by the Board and determined to be unnecessary for achieving the defensible space goals of the PRC 4291.

Rule Text Edit: Consider this alternative as part of the ISOR update in the 15 day notice.

Comment L 9-1 through 25

Comment type: Various grammatical and organizational texts edit

BOF response: Will incorporate most changes

Rule Text Edit: Incorporate after evaluation.

Comment L 10-1

Comment type: The cost to homeowners will exceed the benefits and are beyond the means of most homeowners. The Board of Forestry should consider the fiscal impact on agencies and homeowners.

BOF response: See 1-16

Rule Text Edit: See 1-16

Comment L 10-1

Comment type: There are not sufficiently qualified professionals (foresters and logging operators) available to implement the proposed regulations .

BOF response: Board recognizes the lack of professionals in some locations and the resultant cost increases this will result in. However, compliance with regulation will not always require use of professional foresters or loggers to accomplish goal and meet requirements of the law.

Rule Text Edit: no

Comment L 10-2

Comment type: The proposed regulations and guidelines are open to interpretation by the inspecting official and the enforcement officer of the CDF. They are unenforceable.

BOF response: Guidelines are provide to provide criteria to evaluate meeting the regulatory requirements of 14 CCR 1299 (a) (2)

Rule Text Edit: no

Comment L 10-3

Comment type: Inspection and Enforcement Officials cannot determine property boundaries.

BOF response: This is a homeowner responsibility; approximate boundaries estimates are sufficient to meet the intent of the regulation.

Rule Text Edit: no

Comment L 10-4

Comment type: The VIP Program will lose volunteers. CDF has insufficient resources to inspect and enforce the proposed performance based regulations.

BOF response: Training of volunteers used to conduct inspections will be a required part of the educational program to be implemented by CDF following the adoption of the regulation. CDF has addressed engine staffing to address this lack of professional personnel issue and is developing a "certification" program for fire official, forester's and interest public individuals with the goals train person to conduct compliance inspections.

Rule Text Edit: no

Comment L 10-5

Comment type: § 1299 (a)(2): The 30 to 100 zone cannot be defined. Neither can the property ownership or the boundaries.

BOF response: See L10-3

Rule Text Edit: no

Comment L 10-6

Comment type: § 1299 (b) and (c): The fire inspection official of the authority having jurisdiction does not normally have the legal right to enter private property and inspect it.

BOF response: Rights for entry are limited but can be legally obtained when necessary.

Rule Text Edit: no

Comment L 10-7

Comment type: § 1299 (b) and (c): The guidelines and the regulations are open to the interpretation of and the subjective judgment of the fire inspection official of the authority having jurisdiction.

BOF response: See L1-12; Regulation is designed to provide flexibility for fire officials to agree upon alternate treatments; Guidelines provide criteria to limit subjective judgments.

Rule Text Edit: no

Comment L 10-8

Comment type: § 1299 (d): There are no specific procedures or performance-based standards in the guidelines.

BOF response: 1299 (a) (2) is the primary performance rule and the guidelines are examples of criteria to meet the standard.

Rule Text Edit: no

Comment L 10-9

Comment type: General Guidelines § A, paragraph 3. This paragraph correctly states that every property in California is different. The bullets do not list common practices.

BOF response: Board finds that the bullet items are common practices that should be applied across most if not all landscapes in California.

Rule Text Edit: no

Comment L 10-10

Comment type: General Guidelines § A, paragraph 3, 2nd bullet. The 4 to 40 feet separation in all directions is impossible and impractical for existing homes in the Northern Sierra to meet.

BOF response: Board agrees in some setting this space is not practical or necessary. It has created other options in the Guidelines to address this. Will consider removal of bold text in bullet.

Rule Text Edit: Possible

Comment L 10-11

Comment type: General Guidelines § A, paragraph 3, 4th bullet. Some property owners own the adjacent lot as a buffer to development. The guidelines are not clear if they would have to clear to 100 feet, across the property line if they owned the adjacent property.

BOF response: Will evaluate this.

Rule Text Edit: Possible

Comment L 10-12

Comment type: General Guidelines § A. Issues such as erosion and clearances on banks; County or Homeowner Association ownership of the easement strips along roads that are within the 100 foot zone; and adjacent vacant lots within the 100 foot zone that are not covered by these proposed regulations .

BOF response: Erosion reduction is addressed adequately in A. County or homeowner association of easements needs evaluation; vacant lots are not required to be cleared per PRC 4291.

Rule Text Edit: no

Comment L 10-13

Comment type: General Guidelines § C(4a). The 4 to 40 feet horizontal separation of 4 feet to 40 feet between crowns will require substantial financial resources and the cutting of many trees. The vertical clearance of 4 to 40 feet may be attainable between groups of trees.

BOF response: Board recognizes the financial impact of removing large trees. Cost may be offset by commercial material removed. The issue on spacing between groups needs to be addressed.

Rule Text Edit: Possible

Comment L 10-14

Comment type: Case Example of Separation between Fuels. Add a paragraph on the application of 4b. How does this case example address mature trees on residential lots within subdivisions?

BOF response: Option 4b of the guidelines permits retention of mature trees on lots. Goal of the Guideline is to provide screening and aesthetics values of large trees while removing hazardous ground and ladder fuels.

Rule Text Edit: no

Comment L 10-15

Comment type: General Guidelines § C(4b). Removal of all surface fuels greater than 4 inches in height is impractical and will subject the ground to surface runoff, sheet flow and erosion.

BOF response: Board finds that retaining surface litter is an established Best Management Practice that is effective in reducing erosion to a level that is not significant.

Rule Text Edit: no

Comment L 10-16

Comment type: General Guidelines § C(4b). A third bullet should be added to allow for grouping of trees and spacing between canopies of the groups.

BOF response: Option 4b. allows retaining all mature trees. Consideration will be given for additionally permitting retaining well spaced understory vegetation.

Rule Text Edit: Possible

Comment L 11

Comment type: Form letter of L-8

BOF response: See L-8

Rule Text Edit: See L-8

Comment L 12

Comment type: Form letter of L-8

BOF response: See L-8

Rule Text Edit: See L-8

Comment L 13-1

Comment type: We also appreciate the enactment of Senate Bill 502, which clarifies that in both the first 30 feet and the 30 to 100 foot zone, the phrase “all flammable vegetation or other combustible growth” does not include “single specimens of trees or other vegetation that is well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to any dwelling or structure”. In our view, the flexible intent provided in SB 502 appears to be captured in the regulations proposed for the 30-100 foot zone but not in the regulations proposed for the first 30 feet.

BOF response: Board finds that the proposed regulation is consistent with SB502, but will consider clarifying PRC 4291 (a) requirements.

Rule Text Edit: Possible

Comment L 13-2

Comment type: The regulations clearly define two zone with different fuels treatments. The law, however, provides equivalent treatment of flammable vegetation and combustible growth within 30 feet and from 30 feet to 100 feet from a structure, except that vegetation less than 18 inches in height need not be removed between 30 feet and 100 feet from a structure where necessary to stabilize the soil. We discourage the board from creating two regulatory zones where the law does not discriminate between the two. Instead, we recommend the regulations adopt a single standard for fuels treatment within 100 feet of a structure and note that beyond 30 feet, vegetation less than 18 inches in height need not be removed where necessary to stabilize the soil.

BOF response: Board finds imposing differing intensities of clearing standards , more intense near the home and less intensive further away are necessary to optimize hazard reduction and balance natural resource and social impacts related to implementing the clearing standards.

Rule Text Edit: no

Comment L 13-3

Comment type: Our comments for combining the two zones apply to the guidelines as well. We believe the proposed guidelines for the Reduced Fuel Zone (30 to 100 feet), with some modification, should apply throughout the 100 feet. Two standards are proposed in the guidelines for the Reduced Fuel Zone; one for open canopy and one for closed canopy. We suggested instead, a standard for well-pruned vegetation and one that is not, for greater consistency with the law. If it is necessary to include the direction to remove “all flammable vegetation”, we believe it is important to include the exemptions as specified in SB 502, not merely allude to “certain exceptions”.

BOF response: Consideration needs to be amending 1299 (a) (1) and guideline C. 1. to address SB 502 requirements.

Rule Text Edit: Possible for addressing SB 502.

Comment L 14-1

Comment type: Law gives infringement on property rights and overreaching power to insurance companies and CDF.

BOF response: Board is implementing required statute.

Rule Text Edit: no

Comment L 14-2

Comment type: CDF operates in ignorance of constitution law, ecological principles focused on cutting brush.

BOF response: see 14-1

Rule Text Edit: no

Comment L 14-3

Comment type: Law was passed with no public input and CEQA process and will have serious environmental effects

BOF response: see L8-3 and 8-4

Rule Text Edit: **Possible**

Comment L 14-4

Comment type: CDF is putting landowners at risk of violating other environmental laws.

BOF response: Implementation of regulation and law does not preclude landowner responsibility for complying with other environmental protection laws, such as Endangered Species Act.

Rule Text Edit: **Possible**

Comment L 14-5 and 6

Comment type: Significant clearing in Nevada County on a steep slopes and riparian areas near a creek was not necessary because of non fire prone plants present. Was observed during implementation of CFIP vegetation clearing.

BOF response: Board should consider additional WLPZ protection mitigation as part of this regulation.

Rule Text Edit: **Possible**

Comment L 14-7

Comment type: Clearing county r/w , is this permitted?

BOF response:

Rule Text Edit: **Possible**

Comment L 14-8

Comment type: CDF does not have the expertise to evaluate impacts and program should be suspended until sound principles can be designed [and implemented].

BOF response: Board has a concern about how individual landowners and CDF will be capable of evaluating highly technical biological and archeological settings. In this case, educational or guideline documentation could add information on treating riparian non fire prone species and adding additional WLPZ protection requirements.

Rule Text Edit: Possible

Comment L 14-10

Comment type: The term “guideline” is disingenuous as the guideline set greater power for liens and other non compliance remedies.

BOF response: Proposed regulation 1299 provides a wide variety of treatment standards; however PRC 4291 gives legal remedies for non compliance.

Rule Text Edit: no

Comment L 14-11

Comment type: Regulation created tremendous economic burden.

BOF response: See L1-16

Rule Text Edit: no

Comment L 14-12 and 13

Comment type: Local County is implementing its own fire plan creating many bureaucratic layers. Who takes precedence?

BOF response: Local fire authority have ability per law to adopted more strict regulations. Also, proposed 1299 (c) allow alternate types of treatment.

Rule Text Edit: **Possible.**

Comment L 14-14

Comment type: Guidelines require reliance on herbicides.

BOF response: Regulation does not address the means used to remove vegetation other then state the necessity to comply with existing laws and other permitting requirements to complete the clearing. CDF does not enforce herbicide application.

Rule Text Edit: no

Comment L 14-15

Comment type: “Guidelines “do not consider ecosystem function of native plants and results in wide scale extirpation” of some species.

BOF response: Regulation does not require removal of all native vegetation to achieve compliance with the law.

Rule Text Edit: no

Comment L 14-16

Comment type: After areas are cleared there is a proliferation of non native plants resulting in permanent colonization. The one size fits all regulation affects biodiversity and results in more fire prone species and less none fire prone species.

BOF response: Regulation does not require removal of all native vegetation to achieve compliance with the law. Guidelines for clearing eliminate of fire prone species and retention of non native should be emphasized in guidelines and educational documents. Also see L1-5

Rule Text Edit: **Possible**

Comment L 14-17

Comment type: CDF should instead focus on a comprehensive fire protection program that includes construction and access and other fire mitigation systems.

BOF response: See L8-1

Rule Text Edit: no

Comment L 15-1

Comment type: Concern that in SRA areas where DPA is USFS (Alpine County) USFS will not enforce regulation.

BOF response: Separate issue from regulation content; but follow up is needed.

Rule Text Edit: no

Comment L 15-2

Comment type: Urges minimum standards for undeveloped lots.

BOF response: Beyond scope of regulation.

Rule Text Edit: no

Comment L 16-1, 2, 3, and 5

Comment type: Urges protection of native plants.

BOF response: Regulations permits selective removal of vegetation.

Rule Text Edit: no

Comment L 16-4

Comment type: Insurance companies require 1500 feet of clearing and lots are smaller than that resulting in increased insurance premiums.

BOF response: Not related to terms of regulation. But follow up needed.

Rule Text Edit: no

Comment L 17-1

Comment type: 1299 (a)(1) (i.e 4291 a) could be interpreted as requiring removal of all vegetation.

BOF response: See L5-11

Rule Text Edit: Possible

Comment L 17-2

Comment type: See text edits proposed:

BOF response: Might be reasonable to change in light of SB 502.

Rule Text Edit: Possible

Comment L 18-1

Comment type: If reg requires removal of all vegetation we would be against it.

BOF response: Regulation does not require complete removal of vegetation.

Rule Text Edit: no

Comment L 19-1

Comment type: Implementation of reg would result in clearing costs of \$8-25K

BOF response: see L1-16

Rule Text Edit: no

Comment L 19-2

Comment type: Are funds available from CDF to do this.

BOF response: beyond scope of regulation.

Rule Text Edit: no

Comment L 19-3

Comment type: Blanket specification of clearing overlooks variation in setting.

BOF response: see L1-5, 1-12

Rule Text Edit: no

Comment L 19-4

Comment type: Requires removals all veg and removing has wildlife impacts

BOF response: see responses to similar topic in other comments

Rule Text Edit: no

Comment L 19-5

Comment type: Rule should be part of overall fire safety plan.

BOF response: See responses to similar topic in other comments.

Rule Text Edit: no

Comment L 20

Comment type: Cost and environmental impacts.

BOF response: See responses to similar topic in other comments.

Rule Text Edit: no

Comment L 21

Comment type: Form letter of L-8

BOF response: See L-8

Rule Text Edit: See L-8

Comment L 22

Comment type: Supports reg

BOF response: See responses to similar topic in other comments.

Rule Text Edit: no

Comment L 23- 1-3

Comment type: Similar comments.

BOF response: See responses to similar topic in other comments.

Rule Text Edit: no

Comment L 24-1

Comment type: Supports reg.

BOF response: See responses to similar topic in other comments.

Rule Text Edit: no

Comment L 24-2

Comment type: Amend to more specific that rule does not apply to governmental entities.

BOF response: Will clarify

Rule Text Edit: Possible

Comment L 25 1-2

Comment type: Amend with additional definitions for material and flammable in regulation section 1299 (a) (1)

BOF response:

Rule Text Edit: Possible

Comment L 26-1

Comment type: will have great environmental and cost impacts; did not consider mitigation.

BOF response: see 8-4

Rule Text Edit: Possible

Comment L 26-2

Comment type: Significant environmental impacts to TES not considered.

BOF response: see 8-4

Rule Text Edit: Possible

Comment L 26-3

Comment type: There is substantial evidence that adoption is not properly exempt from CEQA owing to location, cumulative effects, significant effects and Scenic Highway impacts.

BOF response: Board should consider the applicability of mitigation listed in ISOR to meeting the requirements of a CEQA exemption. Review of adequate mitigation for all the factors listed in the comment in accordance with CEQA 15300.2 is necessary. Specifically the CWE analysis and Scenic highway analysis should be considered to ensure that the regulation with its proposed mitigation does not have significant effect and is consistent with the categorical exemption adopted by Board in 14 CCR 1153. Also see L8-4.

Rule Text Edit: Possible

Comment L 26-4

Comment type: Economic analysis is seriously flawed resulting in far greater impacts to homeowners.

BOF response: See L1-16

Rule Text Edit: Possible

Comment L 26-5

Comment type: Do not adopt regulations, revise after full compliance with CEQA.

BOF response: See L26-3; L8-3

Rule Text Edit: **Possible**

Comment L 26-6

Comment type: Work with legislature to revise law.

BOF response: See L8-10; will include alternative as one the Board considered in ISOR.

Rule Text Edit: See L8-10

Comment L 26-7

Comment type: No analysis done to consider vegetative and geographic diversity, specially related to continuous forest subdivisions.

BOF response: Board has considered an initial analysis of the scope of the project. Further technical information provided by CDF FRAP that describes the vegetative diversity and the geographic locations of the application of the rule will be considered by the Board. This document will be added to the ISOR list of technical documents.

Rule Text Edit: **Yes; add technical document to ISOR and consider relevant effects of vegetative and geographic diversity.**

Comment L 26-8

Comment type: Vegetation modification will be continuous over thousands of acres in forest subdivisions in the Sierra.

BOF response: See L26-7

Rule Text Edit: See L26-7

Comment L 26-9

Comment type: Continuous acres of treatment in forest subdivisions in the Sierras will impact streams.

BOF response: See L26-7; L8-4

Rule Text Edit: See L26-7; L8-4

Comment L 26-10

Comment type: New soil disturbance in Santa Cruz County impaired watershed will exacerbate impacts to listed fish species and should be considered a "Take".

BOF response: See L26-7; L8-4. Board should evaluate suggestion that habitat impacts from proposed action will result in a "take". Mitigation related to minimizing large tree removal and flexible range of treatment alternatives were primarily determined by the Board to result in impacts that are less than significant. As mentioned in other responses, Board should evaluate other possible mitigation to minimize impacts to soil disturbance to avoid water shed effects to beneficial uses

Rule Text Edit: Possible

Comment L 26-11

Comment type: An HCP will be necessary; MOUs to authorized "Take" in other areas is flawed logic and underscores inadvisability of one size fits all regulation.

BOF response: Landowners complying with the law and regulation are not exempt from complying in with all laws, including ESA and permits necessary for the action. Proposed regulation was specifically designed to not have a one size fit all prescriptive requirement and only requires compliance with a performance standard to meet a fuel hazard reduction goal stated in 1299 (a) (2). Example of San Diego County MOU was included in the ISOR to demonstrate wildlife agency concern for need to minimize fire affects on habitat and relatively low concern of potential adverse impacts resulting from clearing activities.

Rule Text Edit: Possible

Comment L 26-12

Comment type: Mitigation in ISOR and rule do not lessen potential significant environmental impact.

BOF response: See L8-4

Rule Text Edit: Possible

Comment L 26-13

Comment type: Environmental benefits of reducing wildfire do not outweigh ecological costs.

BOF response: Board agrees that ecological values should not be comprised by application of fire reduction activities.

Rule Text Edit: no

Comment L 26-14

Comment type: Inexperienced or unqualified fire officials could result in overzealous interpretation resulting in large scale habitat modification.

BOF response: Regulations sets guidelines that provide CDF personnel adequate information to complete enforcement inspections that will result in less than significant environmental effects. CDF has expressed concern about the need to have personnel adequately trained to implement the regulation and has embarked on an educational program to help facilitate consistent and reasonable application of the regulation. To date, the Board is unaware of large environmental impacts resulting historical application of the PRC 4291 laws which affects clearing from 0-30 ft from a structure.

Rule Text Edit: no

Comment L 26-16

Comment type: No consideration of recruitment of large woody debris.

BOF response: Board has considered allow existing woody debris; Further consideration should be given to recruitment through allowance for retaining low hazard snags and encouraging retention of decadent trees.

Rule Text Edit: Yes

Comment L 26-17

Comment type: There is substantial evidence that adoption is not properly exempt from CEQA owing to location, cumulative effects, significant effects and scenic highway.

BOF response: Board should consider the applicability of mitigation listed in ISOR to meeting the requirements of a CEQA exemption. Review of adequate mitigation for all the factors listed in the comment in accordance with CEQA 15300.2 is necessary. Specifically the CWE analysis and Scenic Highway analysis should be considered to ensure that the regulation with its proposed mitigation does not have significant effect and is consistent with the categorical exemption adopted by Board in 14 CCR 1153.. Also see L8-4, L26-3.

Rule Text Edit: Possible

Comment L 26-18

Comment type: Fallacious premise for claim in ISOR that will not eliminate or create jobs. Vague unspecified economic benefits are not returned to homeowners who incur substantial costs for compliance.

BOF response: Board has no evidence that individual cost impact to a landowner will result in job loss or creation. Board has made a logical conclusion that the economic impact to home owners resulting from wildfire destroying house property, vegetation and resources will likely far outweigh period costs for vegetative clearing.

Rule Text Edit: no

Comment L 26-19

Comment type: Cost estimate in ISOR are not cannot be achieved in an 8 hr day.

BOF response: Board has made an initial estimate of costs considering the wide variation of expected treatments. For those homeowners which to do intensive treatment, and when in conifer forest setting, cost for treatments and other preparatory items such as permits, will far exceed the 8hr per lot estimate. Board has found that vast majority of SRA home are in vegetative setting that are not conifer forests (90% not conifer forest) and in these cases clearing costs are likely to involve removal/cutting of dead grass which is a relatively low cost to he homeowner.

Rule Text Edit: no

Comment L 26-20

Comment type: Decrease in aesthetics due to implementation of regulation will decrease property values.

BOF response: Regulation does not require removal of all vegetation. Removal levels can be site specifically designed to retain vegetation that can result in minimum effects to scenic and aesthetics.

Rule Text Edit: no

Comment L 26-21

Comment type: Unconvinced by estimate of annual loses due to wildfire stated in ISOR because of inflation and escalation of property values.

BOF response: Estimates generated from CDF wildfire statistics are not inflation adjusted. Widely recognized information suggests that increased population growth in the state has resulted in a continuing past levels of structural losses and likeness of increasing number of structures lost, regardless of the exact dollar estimate. This estimate does not include losses from fire to other property and natural resources around homes.

Rule Text Edit: no

Comment L 26-22

Comment type: Am skeptical that losses are significant relative to collected insurance premium.

BOF response: not related to regulation.

Rule Text Edit: no

Comment L 26-23

Comment type: Dismissal of environmental and cost impacts is speculative.

BOF response: Board has not dismissed these issues, but has carefully evaluated potential impacts, incorporated mitigation, and will consider new information brought to the Board. Input from resource agencies on projects with similar impacts and application of well know best management practices (for the most impactful commercial operations) which are recognized as effective in lessening or eliminating environmental impacts, are part of the basis the Board used in determining the project is unlikely to have significant environmental impacts. Cost impacts are estimated from federal research experiment station and other sources on cost of fuel treatments in forested setting. While not precisely related to cost in a home setting, generalized cost estimates are substantiated.

Rule Text Edit: no

Comment L 26-24

Comment type: One size fits all is not a suitable approach

BOF response: See L1-12 and L26-11

Rule Text Edit: no

Comment L 26-25

Comment type: Costs to environment are too high.

BOF response: see other comments

Rule Text Edit: no

Comment L 26-26

Comment type: Slightly lower insurance premiums are not worth significant decrease in property values.

BOF response: see L26-20

Rule Text Edit: no

Comment L 27-1

Comment type: Average homeowner cannot calculate slope.

BOF response: Estimates of slope as opposed to precise measurements are likely acceptable as a means of determining vegetation spacing requirements. Standard literature produced by FSC over many years has addressed simple ways for homeowners to estimate slope to precisions commensurate with the slope plant spacing guides (+/- 20% category breaks).

Rule Text Edit: no

Comment L 27-2

Comment type: Recommend slope factor be removed because of shaky consistency and will be indefensible in court.

BOF response: see 27-1.

Rule Text Edit: no

Comment L 27-3

Comment type: Measuring the spacing between brush and trees would also be difficult and time consuming for the VIP or CDF inspector, especially vertical spacing. Tape measurements might be required for evidence for a cite.

BOF response: Education and training for inspectors is a key component to implementation of regulation. CDF has expressed need and is developing a plan to implement this training

Rule Text Edit: no

Comment L 27-4

Comment type: Standing on the street or in front of the house and determining horizontal/vertical spacing in a backyard would be tough. Could an inspector actually see a potential violation that far to go into the back yard to investigate further? I heard of a comment from one of our current VIP's stating that there is no way for him to properly assess a lot using the new rules, standing on the street. He just wouldn't be able to assess the tree spacing from the road.

BOF response: Approximation of compliant treatments can likely be estimated from road. Precise measurements will not be able to be made from road. In situations where precise estimates are necessary, inspectors will evoke traditional enforcement procedures for entering property to establish violations. CDF inspectors have dealt with this in the past for the 0-30ft segment.

Rule Text Edit: no

Comment L 27-5

Comment type: Many of our mountain county landowners are elderly and on a fixed income. They will not have the funds or physical ability to treat an extra 1/2 acre of land, especially the tree spacing. In time, the 30-100 foot area might be brought up to code but it would take these people several years. Also the maintenance would be problematic to these folks. A judge might not support any citation that we write to these people.

BOF response: Law requires clearing. Board has developed flexible standards and has considered and created guidelines that balance cost on hazard reduction.

Rule Text Edit: no

Comment L 27-6

Comment type: Our VIP's are frustrated as they do not understand how the wheels of government turn. As a result we are losing a VIP's and are working extra hard to sooth the troubled minds of those that remained. I think the best way for our unit to handle this new rule would be to enforce the 30 foot as before and phase the new regulations in over the next 3-4 years so people will have time meet the new standards.

BOF response: Law requires clearing and is currently in effect. Fire authorities have discretion on implementation rate, compliance methods, and educational outreach to phase in guidelines and increase compliance.

Rule Text Edit: no

Comment L 28-1

Comment type: Supports need for defensible space requirements in general and want to make sure regulation is reasonable.

BOF response: Board believes these requirements are met in the regulation.

Rule Text Edit: no

Comment L 29-1

Comment type: Although I support the concept of performance based guidelines to educate citizens on their fuel reduction responsibilities around their home and property, I am concerned that the adoption of General Guideline 4b is misleading and sends the public a message of false security relative to protecting their families and property during a high wind driven fire event. Ample evidence exists that clearly demonstrates the importance of reducing surface, ladder and canopy fuels in order to stop catastrophic crown fires that burn into the reduced fire zone from the adjoining property.

BOF response: Opportunity to treat canopy fuels is included in regulation. In balancing environmental and aesthetic effects consideration, option 4b provides a treatment that was determined by the board through modeling and in technical literature to be adequately effective in treating fuel hazards.

Rule Text Edit: no

Comment L 29-2

Comment type: The assumption that the removal of surface fuels greater than 4 inches in height and the pruning of trees will protect a home from an oncoming crown fire in a closed canopy situation is incorrect. Scientific studies from both the Cerro Grande and Blacks Mountain forest fires have proven that in extreme windy conditions surface fuels have less influence on fire behavior and intensity than canopy fuels. In other words, under the right conditions, crown fires can be carried through closed canopy stands in the 70 feet Reduced Fuel Zone irregardless if the surface fuels have been treated or not.

BOF response: See L29-2

Rule Text Edit: no

Comment L 29-3

Comment type: As such, I suggest that the horizontal and vertical clearance requirements of 4a be the only standards (rule of thumb) for all regions of the state. I also suggest that you modify the definitions to include Ladder Fuels that grown in between surface and aerial fuels. The interpretation of high, medium and low brush, shrubs and trees is a bit confusing.

BOF response: Should consider definition for ladder fuels. Existing aerial definitions are taken form standard fire hazard professional literature.

Rule Text Edit: **Possible**

Comment L 30-1

Comment type: As stated in my earlier comments I am concerned that the General Guideline 4b – Reduced Fuel Zone: Defensible Space with Continuous Tree Canopy is sending the wrong message to the homeowner. Although these guidelines may prevent a surface fire from initiating into a crown fire in the reduced fuel zone, they will do little to stop a crown fire that is burning into the reduced fuel zone from adjoining properties.

BOF response: see L29

Rule Text Edit: no

Comment L 30-2

Comment type: Although treating surface and ladder fuels are important to prevent “initiation” of crown fires within the reduced fuel zone, they are only window dressing if the crown fuels are not reduced to the spacing standards shown in rule 4a. Erik Martinson and Philip Omni in their Performance of Fuel Treatments Subjected to Wildfire clearly demonstrate that the safest project is one that treats the total fuel profile zone (surface, ladder and canopy fuels) in its entirety and that under extreme wind conditions the treatment of only surface and ladder fuels have less influence on fire behavior and intensity than canopy fuels.

BOF response: see L 29

Rule Text Edit: no

Comment L 30-3

Comment type: Include a definition for “ladder fuels” because you use the term at the top of page 7.

BOF response: Term likely needs more clarification.

Rule Text Edit: **Possible.**

Comment L 30-4

Comment type: Include a definition for “flammable vegetation” and “combustible growth”.

BOF response: Term likely needs more clarification.

Rule Text Edit: **Possible.**

Comment L 30-5

Comment type: What are the “certain exceptions” referenced on page 4 under General Guideline 1.

BOF response: Law states exceptions (single ornamental species etc).

Rule Text Edit: no

Comment L 30-5

Comment type: Horizontal clearance differences need to be clarified between the text in the schematics at the bottom of page 5 and the distances shown in the Plant Spacing Guidelines at the bottom of page 6. The schematics show a minimum distance between tree crowns of 4 feet and the guidelines table shows 10 feet on slopes under 20%. The same conflict exists for the maximum distances, 40 feet in the schematics and 30 feet in the guideline tables on slopes greater than 40%.

BOF response: Need to Change

Rule Text Edit: **Yes**

Comment L 30-6

Comment type: The picture in the center of page 6 is from the Hungry Defensible Fuel Profile Zone project on the Plumas National Forest and the caption should be changed to read “Effective Vertical and Horizontal Separation between Fuels”.

BOF response: Term likely needs to be added.

Rule Text Edit: **Possible.**

Comment L 30-7

Comment type: You need to include a sample picture in the South Coast Chaparral section on page 7

BOF response: Agree

Rule Text Edit: **Possible.**