

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

[Notice Published November 17, 2006]

**NOTICE OF PROPOSED RULEMAKING**

**Utility Clearing Exemption, 2006**

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) Division 1.5, Chapter 7 Fire Protection, and Article 4, described below after considering all comments, objections, and recommendations regarding the proposed action.

**Amend:**

**§ 1257 Exempt Minimum Clearance Provisions-PRC4293**

**PUBLIC HEARING**

The Board will hold a public hearing on Wednesday, January 10, 2007, starting at 8:00 a.m., at the Resources Building Auditorium, 1<sup>st</sup> Floor, and 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 Tuesday, January 2, 2007. 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**

Under the authority of PRC 4292 and 4293, CDF is amending Article 4, Chapter 7, to Title 14 California Code of Regulations. References include Sections 4111, 4292-4296, and 4125 to 4128 of the Public Resources Code.

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

The proposed regulation amends the fire prevention standards for electrical utilities. The proposed regulation adds § 1257(a)(3), a new exemption to existing utility vegetation clearing requirements. The proposed exemption allows for healthy, mature trees (trunks and limbs), that are sufficiently rigid so they do not present a risk to public safety, to be closer to powerlines than the minimum clearing distance under existing regulations. These trees/limbs are commonly referred to as major woody stems, or MWS.

The new exemption would reduce the allowable minimum clearance between the MWS and energized lines to six inches, compared to the existing clearing requirement of four feet (for lines less than 75,000 volts). The proposed exemption would be permitted for a limited period, expiring December, 31 2008. The exemption would apply to utilities lines in the State Responsibility Area (SRA).

## **SPECIFIC PURPOSE OF THE REGULATION**

The purpose of the regulation is to add a MWS exception to 14 CCR § 1257 (a)(3) as provided for by PRC 4293. The regulation:

- avoids trimming or removing trees that are technically within the prescribed clearance requirement but pose no risk of ignition. Because the MWS eligible for exemption have been determined through inspection to be of sufficient size and/or having the necessary characteristics such as rigidity and bark thickness, they do not present a risk of ignition through contact.;
- reconciles 14 CCR 1257 with the California Public Utilities Commission General Order 95, Rule 35;
- provides a measure of fire protection more consistent with the actual risk involved;
- protects mature and stately trees from needless trimming or removal;
- preserves vital habitat to the greatest practical extent consistent with public safety and electric system reliability;
- clarifies enforcement standards for CDF;
- reduces enforcement related costs incurred by CDF related to PRC 4293;
- clarifies compliance standards for the regulated public with regard to PRC 4293; and
- allows for both tree trunks and limbs, when the specific above characteristics are met, to apply to the exemption.

Amendments to subsection 1257 (a)(3) provide for inclusion of a MWS as an exemption to PRC 4293 clearing requirements and defines the characteristics of the MWS along with the new minimum clearance requirements. Characteristics necessary for inclusion of a MWS as an exemption to the existing rules include

- established in their current location for a minimum of ten years;
- are vigorous and healthy;
- the trunks and major limbs are at least six inches from the line; and
- trunks and limbs are of sufficient strength and rigidity to prevent the trunk or limb from encroaching within six inches of the line.

This section also establishes a limited time frame for implementation of the regulation (sunset date). The purpose of the time limitation is to provide an experimental period for implementation, and follow with an evaluation of the results, and amend the rule as necessary.

## **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: None

- 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 is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- 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: None. The Board has determined that the proposed amendments will not affect small business. The amendment adds an exemption to existing clearing standards, reducing the clearing requirement for MWS to a minimum of six inches. This reduction in the clearing requirements is estimated to have a significant positive financial effect for utilities, and potentially utility rate payers, due to the lesser amount of vegetation removal or installation of insulation around line for compliance with existing rules.
- 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.

### **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 Board 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)

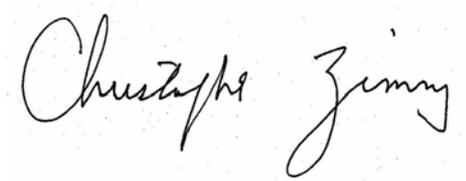
### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

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 horizontal line above the text.

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Christopher Zimny  
Regulations Coordinator  
Board of Forestry and Fire Protection

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