

INITIAL STATEMENT OF REASONS

Utility Clearing Exemption Extension, 2008

[Published August 22, 2007]

Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Chapter 7 Fire Protection, and Article 4:

Amend:

§ 1257 (a)(3) Exempt Minimum Clearance Provisions- PRC4293

The proposed regulation extends until December 31, 2009, an existing regulation for fire prevention standards for electrical utilities. The existing regulation includes an exemption to the utility vegetation clearing requirements in § 1257(a)(3). The 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 exemption reduces 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 extension to the exemption would be permitted for a limited period, expiring December, 31 2009. The exemption applies to utilities lines in State Responsibility Area (SRA).

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

Background

Electrical utility lines are one of the hazards that cause wildfires in State Responsibility Area. Electrical utility lines can cause fires when high winds cause vegetation to sway into powerlines, break off limbs or cause trees to fall into the power lines usually under dry weather conditions. High winds can also cause vibration in lines that can break or stress utility connectors. In these situations, electrical arcing (an electrical transfer of energy) can occur. When combustible vegetation comes in contact with the arcing, a fire can ignite. With tens of thousand of miles of transmission and distribution lines on wildlands, the risk of ignition of a wildfire is considerable and the effort to meet this risk and prevent wildfires from utility line ignition is substantial.

While powerlines are a known ignition source, there is no known documented instance of a fire that was caused merely by the proximity of a MWS to the energized conductor (electrical powerline or other electrical utility hardware). Utility companies and CAL FIRE have been monitoring the existing MWS regulation since its inception in 2007, and no fire ignitions have been caused by or related to MWS.

Necessity

This exemption for MWS established in 2007 had a limited time frame to implement the regulation (sunset date of December 31, 2008). The purpose of that time limitation was to provide an experimental period for implementation, followed by an evaluation the results. If the interim rules proved effective, permanent rules would be requested by the utilities and/or the Department and considered by the Board.

The rule adopted in 2007 provided a limited period (May 1, 2007 to December 3, 2008) under which the regulation exemption could be monitored by CAL FIRE for performance and enforceability. Monitoring for performance and enforceability has yet to be concluded during this period, necessitating extension of the rule. CAL FIRE has indicated the extension through 2009 will provide for a sufficient monitoring period.

SPECIFIC PURPOSE OF THE REGULATION

Modify the expiration date in subsection (a) (3) to 14 CCR § 1257 to December 31, 2009, to allow for continuation of the existing clearing exemption. The exemption to the utility vegetation clearing requirements allows for mature trees (Major Woody stems, or MWS) to be closer to powerlines than the minimum clearing distance in State regulations.

ALTERNATIVES TO THE REGULATION CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES

The State Board of Forestry and Fire Protection (Board) has considered alternatives to the regulation proposed. The alternatives include letting the expiration period lapse, which would effectively eliminate the clearing.

This alternative was rejected as the Board found the existing exemption may provide cost effective and fire safe solutions for which trees/limbs should be cleared around utility lines. To determine the cost effectiveness and the safety of the exemption, monitoring and evaluation of the efficacy of the temporary rule is needed. This monitoring has not been conducted and additional time is needed to complete the monitoring and evaluation. By letting the exemption lapse,

opportunities for monitoring and evaluating would not be achieved.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has not identified any adverse environmental effects as a result of the proposed rules. The proposed rule would extend the existing temporary rule which is specifically designed to avoid unnecessary tree removal to comply with clearing standards where there has been a demonstrated low risk of fire ignition (see OAL File # 070319-03-S, dated April 30, 2008).

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Board staff estimated that this regulation should not have any adverse economic impact on any business. The amendment extends the existing exemption for reducing the clearing requirement for MWS to a minimum of six inches clearance. 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.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small businesses.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board relied on the following technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation as referenced in this *Statement of Reasons*:

1. PG&E, April 17, 1998. Joint Parties "Request for Approval of Criteria for Major Woody Tree Exemption to Rule 35 of General Order 95 in re: CPUC I.94-06-012.I"
2. CPUC, October 22, 1997. Opinion announced in Decision 97-10-056 in re: I.94-06-012 Investigation on the Commission's own motion and order to show cause to determine if San Diego Gas and Electric Company should be held in violation of the Commissions' General Order 95 for failure to have exercised reasonable tree trimming practices and procedures.
3. Loughery, R. December, 2004. Testimony on CDF Public hearing on Fire Prevention Standards for Electric Utilities.

4. PG&E, December 2004. Written Testimony of PG&E of Public hearing before the CDF.
5. CN Utility Consulting, December 2004. Written comments in response to CDF rulemaking of October 22, 2004.
6. PG&E Engineering Test Report: VMS Tree Primary Clearance Test – Preliminary Report February 13, 2006. PG&E Engineering and Test Report Number 443-06.1.
7. CPUC. January, 2006. General Order 95. Rule 35.
8. OAL File Number 07 0319-03 S

Pursuant to Government Code § 11346.2(b)(6): In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Statement of Reasons*; the Board has directed the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

PROPOSED TEXT

The proposed revisions or additions to the existing rule language are represented in the following manner:

UNDERLINE indicates an addition to the California Code of Regulations,
and

~~STRIKETHROUGH~~ indicates a deletion from the California Code of
Regulations.

All other text is existing rule language.

MSW ISOR NF 8_10_08