

INITIAL STATEMENT OF REASONS

Utility Clearing Exemption Extension, 2009

[Published October 2, 2009]

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 January 1, 2012, 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 January 1, 2012. 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 was initially established in 2007 and had a limited time frame to implement the regulation (sunset date of December 31, 2008). Subsequent extensions have been granted to complete an experimental period for implementation and 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.

Monitoring work to evaluate the rule has not been extensively completed by CAL FIRE for performance and enforceability. The extension is necessary to allow time to monitor for performance and enforceability. CAL FIRE has been directed by the Board to provide an initial report on the effectiveness of the regulation six months following this regulation's effective date and provide a final report prior to expiration of the proposed rule.

The temporary extension is also necessary as the California Public Utility Commission is currently reevaluating their utility vegetation clearing requirements. The Board wants to ensure that any permanent MWS exemption is consistent with any updates to the CPUC regulation. The Board has indicated it will monitor the CPUC action and provide technical information on fire hazard or other information within their expertise to the CPUC as part of the CPUC regulatory updates.

SPECIFIC PURPOSE OF THE REGULATION

Modify the expiration date in subsection (a) (3) to 14 CCR § 1257 to January 1, 2010, 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.

Alternative 1: Let the regulation expire.

This alternative lets 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.

Alternative 2: Adopt the rule permanently. This alternative would not be informed by monitoring information and may not be consistent with any CPUC updates, and was therefore rejected.

Alternative 3: Adopt a permanent regulation with modifications for consideration of wind, fire risk settings, and to clarify the MSW definition.

This alternative would have modified the existing regulation to better incorporate consideration wind factors and fire risk as part of the terms and conditions for the exemption. These factors are currently being considered by the CPUC in its regulatory updates. Further, this alternative would have provided additional definitions for what constitutes a MWS to improve enforceability of the rule and reduce fire risk by excluding smaller diameter “large woody stems”. This alternative was rejected as the Board does not currently have the technical information to make such determinations.

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.
9. CAL FIRE Program Review Report, August 4, 2009.

10. PGE MSW summary report August, 31, 2009
11. CPUC Rulemaking notice dated July 21, 2009.
12. Attachment B: CPUC General Order 35 Interim Revisions to Appendix E.
13. Attachment C: Wind Consideration on CPUC R.08-11-005.

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.

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