

**BOARD OF FORESTRY AND FIRE PROTECTION**

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**15-DAY NOTICE OF ADDITION OF DOCUMENTS AND INFORMATION TO  
RULEMAKING FILE AND MODIFIED TEXT**

November 10, 2016

Pursuant to the requirements of Government Code section 11347.1, the Board of Forestry and Fire Protection (Board) is providing notice that a document which the Board has relied upon in adopting the proposed regulations pertaining to Utility Notice of Overhead Operations, 2016 has been added to the rulemaking file and is available for public inspection and comment.

The following document has been added to the rulemaking file:

- Supplement to the Initial Statement of Reasons

Additionally, pursuant to Government Code section 11346.8(c), notice is also given that the Board has proposed modifications to the regulatory text of 14 CCR § 895.1 and 14 CCR § 1032.7, which was subject of a regulatory hearing on September 29, 2016. A copy of the modified regulatory text is enclosed.

Language additions to the modified regulatory text are displayed as doubled underlined text, while deleted language can be discerned by ~~double strikethrough~~.

The above mentioned documents are available for public inspection at the Board's office located at the Resources Building, Room 1506-14, 1416 9<sup>th</sup> Street, Sacramento, CA 94244 from November 10, 2016 through November 28, 2016 between the hours of 8:00 a.m. and 5:00 p.m. In addition, the above mentioned documents are also available on the Board's website for public inspection here: [http://www.bof.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://www.bof.fire.ca.gov/regulations/proposed_rule_packages/). If you have any comments regarding the documents and other information, written comments must be submitted via U.S. mail to the Board by 5:00 p.m. on November 28, 2016, to:

Matt Dias, Executive Officer  
Board of Forestry and Fire Protection  
1416 9<sup>th</sup> Street, Room 1506-14  
Sacramento, CA 94244-2460  
(916) 653-8007

Written comment may also be submitted via email to [public.comments@bof.ca.gov](mailto:public.comments@bof.ca.gov).

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Matt Dias, Executive Officer  
Board of Forestry and Fire Protection

## Board of Forestry and Fire Protection

### SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS (ISOR)

**“Utility Notice of Overhead Operations Amendments, 2016”  
Title 14 of the California Code of Regulations (14 CCR),  
Division 1.5, Chapter 4:  
Subchapter 1, Article 1  
Amend: § 895.1  
Subchapter 2, Article 2  
Amend: § 1032.7**

The Board of Forestry and Fire Protection (Board) intends this Supplement to the Initial Statement of Reasons (ISOR) to provide an Economic Impact Assessment that satisfies the requirements of Government Code section §11346.3(b)(1)(A) – (D), updated information on why the width of 200 feet in distance from a project boundary to overhead power line infrastructure was selected as a trigger for the notification to utilities and clarification on the effect of the regulation.

Updated information on why the width of 200 feet in distance from a project boundary to overhead power line infrastructure was selected as a trigger for the notification to utilities and the effect of the regulation is as follows.

**INTRODUCTION INCLUDING PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS (pursuant to GC § 11346.2(b)(1))...NECESSITY (pursuant to GC § 11346.2(b)(1) and 11349(a))....BENEFITS (pursuant to GC § 11346.2(b)(1))**

The distance of 200 feet, or less, as a threshold for projects to be located within proximity to overhead power line infrastructure was selected by the Board based upon input from representatives from CAL FIRE, utilities and Board of Forestry and Fire Protection technical staff. Timber that is grown and harvested on commercial timberlands, of where this regulation applies, is often approximately 200 feet in height or less at the time of harvest. There is a variation amongst noted heights of mature timber based upon species and site location, but testimony from stakeholders participating in the discussion of draft rule language development offered a collaboratively supported distance of 200 feet as a reasonable representation of tree height for harvestable timber statewide.

The goals of collaboration being encouraged by the regulatory standard of notification would be achieved, in part, through the removal of hazard trees or other vegetation that pose a threat to overhead power line infrastructure. Therefore, the distance of 200 feet, which is correlated to total tree height offers the opportunity for all trees within the identified buffer

zone, to be assessed and harvested, if necessary, to achieve safety and risk reduction standards that collaboration between the utilities and land managers can achieve.

The effect of the proposed action is to provide a requirement within 14 CCR § 1032.7, which is supported by a definition of Utility Contact List in 14 CCR § 895.1, where a landowner must provide information as to the names of utilities that own and manage overhead powerlines that are located within a Timber Harvest Plan (THP) or that are located within 200 feet outside a proposed Timber Harvest Plan boundary. Additionally, it would be the responsibility of the Department to distribute the NOI to the utilities that are identified by the landowner in the NOI within two days so that the managing utility is aware that timber harvest activities are proposed to occur within proximity to their existing infrastructure.

The update to the Economic Impact Assessment of the draft regulatory proposal “Utility Notice of Overhead Operations Amendments, 2016” is as follows:

### **ECONOMIC IMPACT ASSESSMENT**

The Economic Impact Assessment is provided below pursuant to Government Code section 11346.3(b)(1)(A)-(D).

#### **Creation or Elimination of Jobs within the State of California**

The overarching goals of the regulatory standards are to encourage cooperation between utilities and managers of private or state owned timberland for the purpose of increasing standards of safety, efficiency in vegetation management that is within relatively close proximity to power line infrastructure and to reduce the risk of potential impacts to life, property or the environment through reduction of wildfire potential from arching powerlines to vegetative matter. This cooperation would be encouraged through providing required information in certain instances through a pre-existing notification process that applies to Timber Harvest Plan preparation. This minor revision to a pre-existing notification process is not expected to create or eliminate jobs within California.

#### **Expansion of Businesses or Elimination of Existing Businesses within the State of California**

The overarching goals of the regulatory standards are to encourage cooperation between utilities and managers of private or state owned timberland for the purpose of increasing standards of safety, efficiency in vegetation management that is within relatively close proximity to power line infrastructure and to reduce the risk of potential impacts to life, property or the environment through reduction of wildfire potential from arching powerlines to vegetative matter. This cooperation would be encouraged through providing required information in certain instances through a pre-existing notification process that applies to Timber Harvest Plan preparation. This minor revision to a pre-existing notification process is not expected to create or eliminate businesses within California.

## **Creation of New Businesses**

The overarching goals of the regulatory standards are to encourage cooperation between utilities and managers of private or state owned timberland for the purpose of increasing standards of safety, efficiency in vegetation management that is within relatively close proximity to power line infrastructure and to reduce the risk of potential impacts to life, property or the environment through reduction of wildfire potential from arching powerlines to vegetative matter. This cooperation would be encouraged through providing required information in certain instances through a pre-existing notification process that applies to Timber Harvest Plan preparation. This minor revision to a pre-existing notification process is not expected to create new businesses within California.

## **Benefits**

The proposed action will have nonmonetary benefits. The primary benefit of the proposed action is three fold. First, this action will ultimately benefit landowner(s) by increasing the effectiveness and utilization of harvest methods within proximity to powerlines. Notification with PUs will enable landowners to increase biomass marked for harvest that can be safely removed by LTOs, ensuring safety of their crew and equipment. Due to the general lack of proper training required of LTOs working around electrical utilities, consultation with PU designees will allow them to operate with efficiency and safety under the provisions of the Plan. Secondly, by having PUs notified when timber activities are occurring within the vicinity of their powerlines will allow them to confirm the safety and protection of the structures to withstand nearby management activities and provide necessary maintenance to vegetation or existing infrastructure. Ultimately this will result in safeguarding against possible failures or malfunctions, ensuring successful power delivery to customers. Finally, this mandate of increased communication will ultimately reduce the risk to life, property and the environment posed by the possibility of fire incidents caused by direct or arcing contact between vegetative materials and electrical power sources. LTOs and PUs can work cooperatively to reduce the threat of vegetative growth into utility right of ways that may in the future exacerbate the risk of vegetative ignitions.

1 **Board of Forestry and Fire Protection**  
2 **“UTILITY NOTICE OF OVERHEAD OPERATIONS AMENDMENTS, 2016”**

3 **Title 14 of the California Code of Regulations (14 CCR),**

4 **Division 1.5, Chapter 4,**

5 **Subchapter 1, Article 1**

6 **Subchapter 7, Article 2**

7  
8 **Amend:**

9 **§ 895.1. Definitions.**

10 \*\*\*\*\*

11 **“Unstable soils”** may be indicated by the following characteristics:

- 12 1. Unconsolidated, non-cohesive soils (coarser textured than Loam, as defined in  
13 Appendix I.A.1a of Board of Forestry Technical Rule Addendum No. 1 dated  
14 December 15, 1981) and colluvial debris including sands and gravels, rock  
15 fragments, or weathered granitics. Such soil are usually associated with a risk of  
16 shallow-seated landslides on slopes of 65% or more, having non-cohesive soils less  
17 than 5 feet deep in an area where precipitation exceeds 4 inches in 24 hours in a 5-  
18 year recurrence interval.
- 19 2. Soils that increase and decrease in volume as moisture content changes. During dry  
20 weather, these materials become hard and rock-like exhibiting a network of  
21 polygonal shrinkage cracks and a blocky structure resulting from desiccation. Some  
22 cracks may be greater than 5 feet in depth. These materials when wet are very  
23 sticky, dingy, shiny, and easily molded.

24 **“Utility Contact List”** means the list that identifies those utilities that must be notified  
25 ~~or consulted~~ pursuant to the Forest Practice Rules. The Department shall maintain this  
list utilizing information and advice provided by utilities. Each utility shall identify one (1)

1 appropriate contact to be notified or consulted during preparation or review of Timber  
2 Harvest Plans THPs. The list shall be posted on the Department's internet site to make  
3 it readily available to RPFs and others needing the list to comply with these rules. The  
4 list shall also be available by mail through written request to the appropriate CAL FIRE  
5 Review Team Offices. The Utility shall be responsible for providing accurate contact  
6 information. Should an update be required, each update will reflect a new revision date,  
7 so users of the list may identify which version of the list they were using.

8 **“Various age classes”** means a stand with at least three distinct layers of tree crowns.

9 \*\*\*\*\*

10  
11 Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4562, 4562.5, 4562.7  
12 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4525.5, 4525.7,  
13 4526, 4528, 4551, 4551.5, 4561, 4562, 4562.5, 4562.7, 4583.2, 4584, 4591.1, 21001(f),  
14 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K  
15 (printed following Section 15387 of Title 14 Cal. Code of Regulations), *Laupheimer v.*  
16 *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82 and *Joy Road Area Forest and*  
17 *Watershed Association, v. California Department of Forestry & Fire Protection*, Sonoma  
18 County Superior Court No. SCV 229850.

19  
20 **Amend:**

21 **§ 1032.7. Plan Submittal and Notice of Intent.**

22 (a) A pPlan shall be submitted by the person who owns, leases, contracts, or  
23 operates on timberland to harvest timber for commercial purposes.  
24  
25

1 (b) Where the land or timber is owned or operated by parties other than the  
2 person executing the pPlan the person submitting the pPlan shall give prompt written  
3 notice of such pPlan to those parties.

4 (c) The RPF preparing the pPlan shall submit to the Director, with the pPlan,  
5 a Notice of Intent to Harvest Timber (Notice of Intent) if:

6 (1) ~~if~~ any proposed boundary lies within ~~300~~ three-hundred (300) feet of  
7 any property not owned by the timberland owner, or

8 (2) any pPlan amendment that changes a pPlan boundary so that the new  
9 boundary lies within ~~300~~ three-hundred (300) feet of property not owned by the  
10 timberland owner, or

11 (3) ~~with any pPlan amendment that~~ changes the silvicultural method if a  
12 Notice of Intent was required for the pPlan by condition (1) or (2) above or,

13 (4) any overhead electrical power line, except a line from a transformer to  
14 a service panel, is present within the Plan area or within two-hundred (200) feet  
15 of outside the Plan boundary, or

16 (5) any Plan amendment changes a Plan boundary so that any overhead  
17 electrical power line, except a line from a transformer to a service panel, is within  
18 the new boundary or is within two-hundred (200) feet of outside the new Plan  
19 boundary.

20 (d) A Notice of Intent shall include the following information:

21 (1) The names of the timberland owner, ~~Registered Professional~~  
22 ~~Forester~~ RPF who prepared the pPlan, and the pPlan submitter.

23 (2) The location of the pPlan area by county, section, township, and  
24 range, and the approximate direction and distance to the pPlan area from the  
25 nearest community or well-known landmark.

1 (3) The name of and distance from the nearest perennial stream and  
2 major watercourse flowing through or downstream from the pPlan area.

3 (4) The acres proposed to be harvested.

4 (5) The regeneration methods and intermediate treatments to be used.

5 (6) The estimated earliest date that the Director may approve the  
6 pPlan. This is ~~45~~ fifteen (15) days from receipt of the pPlan by the Department,  
7 except in counties for which rules and regulations have been adopted pursuant to  
8 Section 4516.5 and 4516.8 of the Public Resources Code where the earliest date  
9 the Director may approve the pPlan is ~~45~~ forty-five (45) days after the receipt of  
10 the pPlan by the Department.

11 (7) A statement that the public may review the pPlan at the appropriate  
12 CAL FIRE Review Team Office and that a copy of the pPlan may be obtained  
13 from the Department upon payment of the applicable charge.

14 (8) A map which provides the approximate boundary of the THP area,  
15 a map legend, and a scale. This map shall be posted with the Notice of Intent.

16 (9) A statement that questions or concerns regarding the specific pPlan  
17 should be directed to the applicable CAL FIRE Review Team Office for public  
18 input incorporation into an Official Response Document.

19 (10) A statement of whether there is a known overhead electric power  
20 line ~~on~~ within the proposed pPlan area except a lines from a transformers to a  
21 service panels.

22 (e) The RPF preparing the pPlan shall furnish to the Department at the time of  
23 submission of the pPlan, the names and mailing addresses of all property owners within  
24 ~~300~~ three-hundred (300) feet of the plan boundary. Either a list compiled from the latest  
25 equalized assessment roll or a list provided by a title company doing business in

1 California compiled within ~~60~~ sixty (60) days of submission of the plan shall be  
2 deemed sufficient for compliance with the subsection.

3 (f) The RPF preparing the Plan shall furnish to the Department at the time of  
4 submission of the Plan, the names and mailing addresses of utilities that operate  
5 overhead electrical power lines within ~~and/~~ the Plan boundary or within two-hundred  
6 (200) feet outside the Plan boundary. This information shall be obtained from the Utility  
7 Contact List.

8 (f)(g) The Department shall mail copies of the Notice of Intent within ~~2~~ two (2)  
9 working days of receipt of the plan to all persons identified in (e) and (f) above.

10 (g)(h) Prior to ~~plan~~ submission of the Plan, the person submitting the plan  
11 shall post a copy of the Notice of Intent including a map as described in (d)(8) at a  
12 conspicuous location on the public road nearest the plan ~~site~~. Said Notice of Intent  
13 shall be on colored paper or identified with colored flagging so as to be easily visible to  
14 the public.

15  
16 Note: Authority cited: Sections 4551 and 4582.3, Public Resources Code. Reference:  
17 4551, 4581, 4582.3, 21080 and 21092, Public Resources Code.