

Response to Public/Hearing Comments				
Rule File: Fire Prevention Standards for Electrical Utilities				
Comment Period: 10/22 -12/6/04 and 3/30/05 to 4/14/05 - Hearing: 12/15/05 and 4/18/05				
L= Letter S=Speaker				
Comment #	Summary of Comment	Response to Comment	Revision Needed	Section
L1-1	On p.3, Section 1251; The second line in the third paragraph has a grammatical error: should be "carries an electrical, not and electrical"	change noted and corrections made in subsequent documents	no; sentence not used in subsequent documents	45 day notice
L1-2	Page 4. 1257, second line. Should be "help clarify" . Omit "of".	See L1-1	See L1-1	15 day notice
L1-3	Page 5, Contact Person, Please omit the "a" before "phone number	change made	See L1-1	15 day notice
L2-1	Pacific Gas and Electric Company (PG&E) strongly supports CDF's effort to clarify the regulations, and agrees with many of the proposed changes.	CDF goal is to provide clear enforceable utility clearing regulations useful to the regulated public.	no	
L2-2	the amendments to Section 1256 could be interpreted to require extensive removal of healthy trees and thus would create significant economic and environmental impacts	Edits were made to section 1256 of the rule text enclosed with the 45 Day as part to the 15 Day notice. These edits were adopted by the Department. The edits were made in response to the concerns raised that changes to clearing requirements in section 1256 originally proposed in the 45 day notice would result in significant additional vegetation clearing and costs beyond the existing regulation currently in place. The Department's goal and intent with these regulations is not to change the clearing requirements, but to clarify the existing statutorily defined standards. The changes are intended to improve enforceability of the clearing requirements, reduce violations, reduce hazards and ultimately reduce utility related fires.	Yes ; revisions made to language in 45 day notice as part of the 15 day notice and adopted	section 1256

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L2-2 cont.		While CDF did not agree with the interpretation of this comment, it deleted the language proposed in the 45 day notice, and replace it with language that requires clearing to be based on "any position through which the vegetation may sway...". By adding the term " vegetation may sway", clarification and direction is provided that clearing requirements for healthy trees should consider sway of tree instead of clearing requirement for healthy trees based on any position the tree may move. CDF agrees that use of the term in the 45 Day notice "any position the vegetation may move" could be interpreted as necessitating removal of healthy, remote trees that by some natural disaster could fall, slide, or be propelled into the lines. This revision is found by the Director to avoid to a level less than significant any of the potential environmental impacts and CEQA related compliance issues addressed by the commenter. Additionally, the Director finds that revisions as adopted do not materially change existing clearing requirements.		
L2-3	PG&E supports CDF's proposed amendments to Section 1251.	CDF goal is to provide clear enforceable utility clearing regulations useful to the regulated public.	no	
L2-4	PG&E agrees with CDF that it is extremely important to "avoid ambiguity about where the CDF director will apply fire prevention [provisions of the Public Resource Code (PRCs).]" Notice of Proposed Rulemaking, October 22, 2004, p. 3. Unfortunately, the comments on the specific purpose and necessity of the regulation actually create ambiguity about where the fire prevention regulations apply. While the amended regulation is entitled "Areas Where PRC 4292-4296.5 Apply in State Responsibility Areas," (emphasis added), the comments suggest that it is intended to apply outside state responsibility areas.	The amendments to section 1252 proposed in the 45 day notice was adopted, with some additional minor changes as shown in the 15 day Notice. The adopted regulation includes added language to clearly state that the Director will apply the statutes in SRA. CDF does not agree that this section create ambiguity about where the Director will apply the statute. Other authorities will apply the statue in their own jurisdictions.	no change to amendments as proposed in the 15 Day Notice	1252

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L2-5	The SRA boundary currently covers about half of PG&E's certificated service territory and the CDF fire season lasts about seven months of the year. In other areas and at other times of the year, PG&E and other utilities must comply with the fire prevention regulations of the California Public Utilities Commission's General Order (G.O.) 95, Rule 35. While the fire prevention PRCs are similar to the provisions of G.O. 95, they differ in several material requirements. In order to ensure that PG&E and the other utilities are able to meet the requirements of the PRC, we need to know both by when and in what specific areas we are supposed to trim or clear to PRC standards.	Sections 1252, 1252.1, 1253 , and 1256 were amended as shown in the 15 Day notice, to clearly state the time frame when the rules are applicable (declared fire season), where the rules are applicable (in SRA), and what to clear (see 14 CCR 1256). These sections were amended to provide clarity on where clearing regulations apply and language was added to 1252. 1 to provide better service and information to the utilities on changes SRA boundaries where the rules apply. Amendments to 1253 were made to provide a more flexible time frame for the utility companies to complete the clearing work and are viewed as regulatory relief and potential cost savings to the utility companies that are regulated.	Yes ; revision made in 15 day notice and adopted	various
L2-6	The proposed new title of Section 1252, and the text of the regulation itself, indicate that PRC sections 4292 - 4296.5 apply "within state responsibility area" unless otherwise exempted. This provides clear guidance to utilities as they know the boundaries of the SRA.	See L2-4	See L2-4	

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L2-7	Unfortunately, contrary to the title and the text of Section 1252, the comments explaining the purpose and necessity of the proposed changes imply the opposite - that the changes "relieve any misapprehension that the director is responsible for application of the fire prevention rules only in SRA." The implication, that Section 1252 somehow states that PRC sections 4292 - 4296.5 apply outside the SRA, is contrary to the proposed new title, contrary to the text of the regulation, and also would create confusion for utilities about where the PRCs apply and where G.O. 95 applies. For example, is a particular grassy spot two miles outside the SRA boundaries now covered by the PRCs or not? Utilities would have no way of knowing.	Statute 4292 and 4293 clearly states the clearing requirements are applied by the Director or the "agency which has primary responsibility for fire protection..". The Director has authority for clearing requirements in SRA. Other agencies have the responsibilities elsewhere. Areas outside the SRA , if they meet the definition in 4292 and 4293, are required to have vegetation clearing, and the agency with the fire protection responsibility in the area has the authority to impose the requirements. Language stated in the 45 Day notice and Final Statement of Reasons regarding purpose and necessity of amendments to 1252 were achieved , from CDFs prospective by adding hte new langae "The Directore will apply PRC 4292....in Stae Resposnibility Areas..". Also the purpose and ncessity langauge used in the FSOR is accurate and was achieved when reading the statute as described in this response above.	See L2-4	

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L2-8	PG&E respectfully requests that CDF delete or otherwise modify the discussion of the specific purpose and necessity to remove this confusion.	See L2-7	See L2-4	
L2-9	As discussed above, it is essential that utilities know the boundaries set forth in the SRA maps. Yet for some reason, the proposed regulations have dropped current section 1252.1(b), which provides that the Director will forward any changes in the SRA maps to the affected electric utilities.	CDF in the 45-Day Notice initially proposed to delete the requirement that the director forward changes on the SRA boundary to utilities(1252.1(b)). While the 15-Day Notice inadvertently left out the proposed deletion of section 1251.1(b) that was stated in the 45 day notice, the Department agrees with the commenter and the exact language of section 1252.1(b) was added into the 15-Day Notice and adopted. The language of 1252.1 (b) is necessary to provide adequate notice to utilities of the locations where SRA is applicable.	Yes ; revision made in 15 day notice and adopted	1252.1
L2-10	Promptly communicating any changes in the SRA maps to the respective utility is essential to ensure clarity of the location of the SRA boundaries, and PG&E strongly urges CDF not to delete current Section 1252.1(b).	See L2-9	See L2-9	1252.1

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L2-11	<p>Amend 14 CCR: § 1252.1.Official Area Maps.</p> <p>Areas where the provisions of PPC 4292-4296 apply are delineated on maps for state responsibility areas, as "Official Map State Responsibility Area for Fire Protection." Filed in the office of the Director, Fire Protection Section 1416 Ninth Street, Sacramento, California 95814.</p> <p>(a) The official maps are available during normal business office hours for viewing and copying at the California Department of Forestry and Fire Protection, 1416 Ninth Street, Sacramento, California, 95814, in the Fire Protection Section.</p> <p>(b) When, pursuant to PRC 4125-4128, the Board revises state responsibility area boundaries, the Director will forward a legal description of a boundary changes) to the respective electric utility's) serving the area's).</p>	See L2-9	See L2-9	1252.1
L2-12	<p>PG&E supports the proposed changes to Section 1253., The fixed end date in the current rule is not responsive to actual weather conditions in various parts of the state. This year provides a perfect example - the snows came to much of the northern and central Sierras in October, before the official end of the fire season.</p>	<p>The final adopted regulation provided both flexible beginning and ending dates for required clearing based on when the actual fire hazard exists. This time period is the declared fire season. These changes provide a very flexible clearing compliance attainment period for electrical utilities. The revision establishes clearing requirement attainment during the period of CDF declared fire season. This declaration is made annually by the director and affects other fire prevention requirements beyond hazard reduction related to electrical utilities. Changing compliance date to conform to a declared fire season provides a better assessment of actual hazard conditions by having fuel moisture conditions/hazardous fire conditions assessed by a professional, instead of an arbitrary date. This change may have potential cost saving benefits to utilities by not requiring clearing when there is no fire hazard. Conversely, a flexible begging date now means the utility will have to anticipate weather conditions that indicate the nearing of the fire season and have clearing in compliance to that date.</p>	no	

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L2-13	CDF explains that the proposed revisions here will help clarify fire hazard reduction requirements and improve enforceability of the prevention standards. PG&E supports this goal but believes that CDF has unintentionally created ambiguities in the proposed revision by deleting specific factors which the utilities should consider in determining whether trees require trimming or removal in any given fire season.	See L2-2	See L2-2	1256
L2-14	In its Initial Statement of Reasons, CDF explains that its intent is to clarify that the required vegetation clearances are based on the ability of the conductor or the vegetation "to sway" and come in contact. Unfortunately, the proposed regulation does not state this purpose as clearly as the comments do.	See L2-2	See L2-2	1256

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L2-15	Currently, utilities must consider both the sway of the conductor and the sway of the tree. Specifically, the existing rule expects utilities to consider "the size and material of which the conductor is made, span length, foreseeable wind velocities for any location and height, species and flammability of adjacent vegetation" in their vegetation management programs. By eliminating reference to the conditions and factors, the rule could be read to expand the scope of the regulation beyond a reasonable clearance requirement to make utilities responsible for any tree or tree branch that may fall on a conductor. Such a reading could be used to make the utility liable regardless of the weather conditions at the time of the incident, the tree's proximity to the conductor or whether the tree or branch exhibited any outward signs of disease or decay at the time of inspection so as to place the utility on notice of its imminent failure.	See L2-2	See L2-2	1256

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L2-16	Under such a reading, the following examples might be interpreted as violations of a rule that states that the utility is liable for "any position through which the conductor and vegetation may move": (1) an otherwise healthy tree that falls during a wind storm and hits the conductor; (2) an oak tree that topples due to saturated soil; or (3) the failure of a tree limb as a result of Summer Limb Drop. These situations occur without any advance warning of failure and cannot be accurately predicted. Similarly, it is claimed that certain species of trees, including eucalyptus, cottonwood, and grey pines, have brittle limbs or poor root systems and are particularly susceptible to failure of uprooting during a wind storm. If CDF is proposing that utilities should remove all such trees that are close enough to contact power lines, then CDF should explicitly so state (although PG&E does not believe that this would be good public policy).	See L2-2	See L2-2	1256

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L2-17	If the proposed regulation is intended to hold a utility liable for every tree or branch that may contact its conductors, the utility's safest recourse would be to remove or top literally millions of trees - all those, on level ground, that would be tall enough to hit the conductors if they fell regardless of their distance from the lines, and all those trees on slopes, regardless of their size, which might contact the lines if they fell. Such drastic cutting and clearing would substantially increase the costs to the state's utilities and ratepayers, would cause erosion and other significant adverse environmental impacts.	See L2-2	See L2-2	1256
L2-18	<p>§1256. Minimum Clearance Provisions--PRC 4293.</p> <p>Minimum clearance required by PRC 4293 shall be maintained with the specified distances measured at a right angle to the conductor axis at any location outward throughout an arc of 360 degrees. (See Figure 4 this Article.)</p> <p>Clearance shall include any position through which the conductor may moves way considering the size and material of which the conductor is made, <u>the span length, and any position through which the vegetation may sway</u> considering foreseeable wind velocities for any location and height, species and flammability of adjacent vegetation.</p>	See L2-2	See L2-2	1256

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L2-19	The proposed amendment to subsection 1257(b) provides that, "These exemptions do not apply <i>where there are</i> dead and decadent or rotten trees," PG&E believes that CDF intends that the exemptions should not apply " <i>to</i> " dead and decadent or rotten trees, etc. However, CDF's use of the phrase, " <i>where there are</i> " is ambiguous and could be miss-interpreted to essentially moot the exemptions, because "there are" areas where there may be two rotten or leaning trees or portions thereof, and only those trees should be excluded from the exemption, not the entire area. Changing " <i>where there are</i> " to " <i>to</i> " would eliminate any confusion.	Change made as suggested by commenter	yes	1256

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L2-20	In its Notice of Rulemaking, CDF claims that it has not identified any adverse environmental effects as a result of the proposed rules. Unless liability under Section 1256 is limited to incidents involving the utility's failure to monitor conductor and tree sway instead of extending such liability to incidents involving any tree or branch that falls regardless of fault, utilities would be motivated to top or remove any tree that could possibly hit the conductor under any circumstances. Such a strict liability interpretation would have significant adverse environmental consequences because the easiest way to guarantee that no tree can ever contact the power line is to remove every tree or branch capable of falling into the lines.	See L2-2	See L2-2	1256

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L2-21	<p>If one assumes that two-thirds of the trees could be topped to a level below the wire height, this means that as many as 6 million trees might have to be removed completely based on, a strict interpretation of the regulation. This estimate does not include any adjustment for those trees that subsequently die as a result of the severe topping and must later be removed. Also, the estimate does not include adjustment for areas with very tall trees where more trees would be within the fall zone of the lines.</p> <p>This would have significant environmental impacts throughout the State, but the impact would be particularly severe in certain areas. Trees along rural residential streets, where PG&E has traditionally practiced "natural pruning" to remove only so much of the tree as necessary to redirect natural growth away from the lines, would have to be topped to a point below the secondary lines. Many existing shade and landscape trees would have to be removed from residential neighborhoods.</p>	See L2-2	See L2-2	1256
L2-22	<p>The impact would also fall disproportionately on older, majestic trees, commonly known as "heritage" trees. The very size of these trees would necessitate severe topping, if not outright removal. All trees the age of a "heritage" tree exhibit some sign of past disease, injury or compartmented decay. Along just one highway, the Avenue of the Giants, it is estimated that several thousand ancient Sequoia Sempervirens might have to be felled.</p>	See L2-2	See L2-2	1256

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L2-23	PG&E believes that under the circumstances, where affected utilities could reasonably find that the safest way to ensure compliance is to top or remove millions of trees, the environmental review required by the California Environmental Quality Act (CEQA) (Cal. Pub. Res. Code §§21000, et seq.) cannot be discharged with a negative declaration. <i>City of Carmel-by-the-Sea v. Board of Supervisors</i> (1986) 183 Cal.App.3d 229, 247-249. Where there is a "serious public controversy" regarding the significant effect on the environment, the CEQA Guidelines state that an environmental impact report must be prepared. CEQA Guidelines §15064(h) (1).	See L2-2	See L2-2	1256
L2-24	Furthermore, as discussed above, if the proposed regulation is interpreted to hold the utility responsible for any tree or branch that contacts the electric lines, utilities may be compelled to top or cut down every tree within the fall zone of the lines. A program to remove vegetation adjacent to all overhead lines would require approval of the California Public Utilities Commission. Even if implementation of such a program were spread over several years, the cost could be hundreds of millions of dollars per year.	See L2-2	See L2-2	1256

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L3-1	"Disclosures Regarding the Proposed Action": CDF has effectively concluded that there are no adverse economic impacts to state or local public agencies, or to businesses. SDG&E disputes that the proposed action is without impact...The proposed amendments will modify and increase the scope of tree trimming to a large, as yet unquantified, degree. However, SDG&E anticipates the costs of compliance will be substantial. Further, the proposed amendments would subject electrical utilities to greater risk of civil liability.	CDF has amended its proposed language in the 45 day notice section 1256 that was interpreted by the public to result in increased clearing requirements and corresponding increases in cost to affected public do to the amended regulation. The changes made and the rational for the determination by CDF that only clarifications of existing regulation are made, with no additional clearing requirements added, are described in L2-2.	See L2-2	1256
L3-2	Not address by CDF are the potential adverse environmental impacts related to additional trimming...	CDF has amended its proposed language in the 45 day notice section 1256 that was interpreted by the public to result in increased clearing requirements, increased environmental impacts, and corresponding increases in cost to affected public do to the amended regulation. The changes made and the rational for the determination by CDF that only clarifications of existing regulation are made, with no additional clearing requirements added, are described in L2-2.	See L2-2	1256
L3-3	Section 1252: CDF states that the proposed revision will "relieve any misapprehension" of the director's responsibilities, will "avoid ambiguity" where the director will apply PRCs, and "helps eliminate ambiguity that PRCs do not apply to, areas outside of SRA." The section itself, however, in its present form, is clear and unambiguous that the provisions of PRC 4292 - 4296.5 apply only in SRA. Further, the proposed amendment appears not to substantively change the application of the specified PRCs to SRA. Thus, ambiguity is created <u>only</u> by the explanation of the purpose for the amendment.	Public input during litigation hearings involving CDF and the regulatory interpretation of 14 CCR 1252 indicated that it was unclear where the Director of CDF will apply section 1252 . To remedy this perceived ambiguity, amendments was proposed for change to clearly indicate that 14 CCR 1252 applies to State Responsibility Areas (SRA) and the Director of CDF will apply this regulation to SRA.. Also see L2-4.	See L2-4	1252

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L3-4	Section 1252.1: As it exists, this section permits copying of official maps. The proposed amendment specifically eliminates the word "copying" and limits access to "viewing" in Sacramento. The amendment thus makes understanding the scope of regulations and their applicability more difficult because it prevents utilities from having official maps readily available. It also potentially increases the costs to utilities by requiring personal attendance in Sacramento at possibly regular intervals to determine whether changes have been made to the official maps.	See L2-9	See L2-9	1252.1
L3-5	Section 1256: As proposed, the section sets minimum clearances at any position where the conductor and vegetation may move. In doing so, the section would mandate trimming without consideration of the reasonable foreseeability of vegetation to impact electrical equipment. This effectively establishes strict liability of the utilities. It will likely significantly increase the cost of trimming in that trees that currently have no reasonable likelihood of encroaching on equipment will be required to be trimmed. Such action is unnecessary.	See L2-2	See L2-2	1256

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L3-6	...the proposed amendment will be contrary to General Order 95, Rule 35, which is adopted by the CPUC. The CPUC is a state agency of constitutional origin (Cal. Const., art. XII, Sects. 1-6), with broad authority to regulate utilities, to fix rates, and establish rules. (<u>Schell v. Southern Cal. Edison Co.</u> (1988) 204 Cal. App.3d 1039, 1045). "[The powers granted the PUC, including its rules and regulations, constitute general state laws." (<u>Leslie v. Superior Court</u> (1999) 73 Cal.App.4 th 1042, 1046; <i>see also</i> <u>San Diego Gas & Electric Co. v. Superior Court</u> (Covalt) (1996) 13 Cal.4 th 893, 914-915.) Rule 35 provides that "tree trimming be done in order that the wires may clear branches and foliage by a <u>reasonable distance</u> ."	Existing regulation for clearing requirements under section 1256 are derived from PRC 4293. Requirements for G.O. 95 do not supercede PRC on SRA lands. Changes were made to address the increased clearing requirements perceived by the commenter as part of the 15 day notice and adopted . Also see L2-2.	See L2-2	1256
L3-7	Appendix E to General Order 95 sets forth guideline for clearances between conductors and vegetation under <u>normal conditions</u> . (See Rule 35, first para.) CDF's effort to impose standards different from and other than those that electrical utilities are already mandated to comply with is inappropriate.	See L3-6	See L2-2	1256
L4-1	PRC 4293 should not be revised, it should be eliminated.	See L3-6	no	
L4-2	The proposal and justification, as written, is vague and will not serve to clarify or improve the current situation.	CDF reviewed potential ambiguities brought forth by CDF staff and the public before and during public hearings. These inputs demonstrated the necessity of the rule amendments. CDF disagrees with the commenter and finds that amendments adopted substantially improve unclear standards, improve poorly written English language grammar and syntax and help improve enforceability of the regulations and do not impose further ambiguity or costs to the regulated public. CDF modified initial language proposed in the 45 day notice based on public input to improve clarity and avoid unintended cost and environmental affects of the proposed amendments.	Yes ; changes made to the 45 day notice as described in the 15 day notice.	various sections

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L4-3	The reasons this PRC section should be eliminated are: 1. It is outdated 2. It is redundant 3. It is increasing the likelihood of both fires and power outages in California 4. It results in the unnecessary removal or damage to healthy non-hazardous trees 5. It is costing ratepayers and citizens tens of millions of dollars annually in unnecessary maintenance costs	See L3-6 and L2-2. CDF has no authority to change statutory law.	no	
L4-4	In the section entitled "ALTERNATIVES TO THE REGULATION CONSIDERED BY THE CDF THE REASONS FOR REJECTING THOSE ALTERNATIVES" the CDF did not consider elimination of this code. We believe, based on the preceding information, that this is an option CDF should have evaluated.	Eliminating of the code is not a feasible or legally available alternative.	no	
L4-5	In the section entitled "POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS" CDF indicated that they had not identified any adverse environmental effects as a result of the proposed rules. We disagree with this statement. Any changes to clearance requirements may have a negative effect on millions of trees in the state. As such, these proposed changes need to be evaluated on an accurate understanding of the implications. There is no evidence that this was considered.	See L-2-2	See L2-2	1256

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L4-6	In the section entitled "EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS" CDF states that the proposed changes will not have a significant adverse economic impact on businesses. We disagree with this statement. Any change to current clearance requirements can result in millions of dollars in additional work.	See L-2-2	See L2-2	1256
L4-7	In the section entitled "ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS" CDF states that no alternatives were presented that would lessen any adverse impact on small businesses. While it was not explained as to what qualifies as a "small business" we propose that the elimination of 4293 would serve to lessen adverse impacts on businesses throughout the state. As such, we request that CDF evaluate the elimination of 4293 as an appropriate action.	See L3-6 and L2-2. CDF has no authority to change statutory law.	no	
L4-8	It is unclear whether CDF is suggesting that it indeed has, or does not have jurisdiction in both the SRA and LRA. This is made further unclear by the "underline and strikethrough" document which does not appear to address either possibility.	CDF finds that the adopted amendment to 1252 meets the purpose of the amendment to clarify that the Director will apply clearing requirements of 4292-4296 in SRA. Responsibilities for enforcement to these statutes or applicable regulations on non-SRA lands are not under the Director's authority (unless cooperative agreements are established). CDF finds that the adopted regulations meet the primary necessity of the regulation , as stated in the ISOR and FSOR, to help avoid ambiguity about where the Director will apply fire prevention PRCs, and provides greater clarity that other parties are responsible for enforcement of clearing requirements on mountainous and brush covered land in other jurisdictions.	no	

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L4-9	...any change to clearance requirements can dramatically increase costs and result in the unnecessary removal of countless trees. The "underline and strikethrough" document suggests new language which we believe will expand the current clearance requirements, with no demonstrated need. This will result in a tremendous amount of new work that has not been demonstrated as being necessary	See L2-2	See L2-2	1256
L4-10	CNUC does not support the proposed changes.	comment noted	changes made as part of 15 day notice to reflect	various sections
L4-11	...proposed changes will not improve clarity of standards or less fires...proposal is vague and will not serve to improve situation...	See L4-2	Yes ; changes made to the 45 day notice as described in the 15 day notice.	various sections
L5-1	EEl appreciates CDF's efforts to clarify amendments...However, we are concerned that the proposed regulations create ambiguity over the application of the regulations. Such ambiguity can create the jurisdictional obstacles that FERC and NARUC seek to overcome. EEl requests the CDF to closely review the comments submitted by California's electric utilities identifying the ambiguities in the proposed rule. We also request CDF give serious consideration to the clarifying language recommended by the utilities.	Comments and recommendations made by utility companies submitted for this regulation considered and various amendments made in the 15 day notice of proposed rule making and adopted by the Director.	Yes ; changes made to the 45 day notice as described in the 15 day notice.	various sections

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L6.1-1	<p>We agreed to change the definition of "Firebreak" to eliminate reference to "ignition:"</p> <p>As we discussed, sometimes there is confusion in the field as to whether the firebreak must be maintained in a condition as to prevent any possible spark or other ignition if that spark is self-extinguished and no fire is allowed to spread outside the cleared area. Therefore, we agreed to the following:</p> <p>"Firebreak" means a natural or artificial barrier usually created by the removal of modification of vegetation and other flammable materials for the purpose of preventing the ignition or spread of fire.</p>	change requested by commenter was included as part of the 15 day amendments and adopted by CDF	Yes ; changes made to the 45 day notice language as described in the 15 day notice.	1251
L6.1-2	<p>In the definition of "hot line tap or clamp connector" we agreed to change the last word to "conductor" instead of "connector" as in the following:</p> <p>"Hot line tap or clamp connector". means a connector designed to be used with a Grip-All Clamp stick (Shotgun) for connecting equipment jumper or tap conductors to an energized main line or running connector conductor.</p>	no change made as the definition of conductor was amended to include the term connector which is the existing term used in this definition	no	
L6.1-3	The utilities were generally confused by the rationale provided as to whether CDF intended to enforce the fire prevention standards for public utilities (California Public Resources Code §§ 4292, 4293) outside the boundaries of State Responsibility Areas SRAs). We agreed that the CDF Director has authority to implement Public Resources Code sections 4292 and 4293 only within State Responsibility Areas.	See L2-4	no change to amendments as proposed in the 15 Day Notice	1252

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L6.1-4	We agreed that affected utilities need prompt notification of any changes in SRA boundaries. We agreed to retain to the current provision in Section 1252.1(b) which provides for automatic distribution of SRA maps to utilities. We also agreed that the actual mechanism for distribution of the maps could be the subject of further discussions to develop the most efficient method.	no change from proposed amendments as shown in the 15 Day notice	no	
L6.1-5	We agreed to the proposed changes which will allow the Director to declare an end to the fire season. For the same reason, agreed that the Director should have authority to adjust the opening of fire season as well.	no change from proposed amendments as shown in the 15 Day notice	no	
L6.1-6	We also discuss that use of the word "propagate" in this context was ambiguous because it was subject to several meanings including ignition. For this reason, we agreed to replace "propagate fire" with "allow a fire to spread" as in the following excerpt: Section 1253. Time When PRC 4292-4296 Apply. <u>Unless otherwise specified by the Director, the minimum firebreak and clearance provisions of PRC 4292-4296 are applicable when vegetation, whether living or dead, is flammable and will propagate fire allow a fire to spread outside the firebreak: (a) From May 1 through</u>	The comment was not included as the CDF chose to delete any reference to arbitrary dates or vegetation conditions used to determine the period of time when the clearing requirements are applicable. These changes provide a very flexible clearing compliance attainment period for electrical utilities. The revision establishes clearing requirement attainment during the period of CDF declared fire season. This declaration is made annually by the director and affects other fire prevention requirements beyond hazard reduction related to electrical utilities. Changing compliance date to conform to a declared fire season provides a better assessment of actual hazard conditions by having fuel moisture conditions/hazardous fire conditions assessed by a professional, instead of an arbitrary date.	no	

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L6.1-7	<p>...the term "propagate fire" is often confused to include merely allowing a single point of fire ignition. We agreed that what this section is intended to prevent is the accumulation of fuels within the firebreak to a point that will allow a fire, once ignited, to spread outside the firebreak to surrounding wildlands. Therefore, we agreed to replace the term "propagate fire" as in the following:</p> <p>(a) At ground level - remove flammable materials, including but not limited to, ground litter, duff and dead or desiccated vegetation that will propagate firespread a fire outside the firebreak, and;</p>	change made as part of the 15 day notice and adopted reflects in part the commenter recommendations. CDF found that it was necessary to make a broader term in place of the existing word "propagate" as CDF's concern is spread of fire anywhere on the terrain, not just spread of fire outside the firebreak, as suggested by commenter.	yes; change made as described in the 15 day notice	1254
L7.1-1	PG&E appreciates this opportunity to work with the California Department of Forestry in connection with CDF's efforts to reduce the risk of fires throughout the State of California. We also want to reduce the risk of fires throughout the State of California, as well as continue our efforts to design and implement vegetation management programs so as to ensure public safety and system reliability.	no specific comment	no	

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L7.1-2	CDF proposes to revise regulations issued under California Public Resources Code §4293. PG&E is concerned that if adopted as written, the regulations will impose requirements on the State's utilities that will not only have adverse environmental impacts, but, if implemented, will result in costs to the utilities and its ratepayers that will far outweigh the goal of reducing power-line caused wildfires in the State of California.	See L2-2	See L2-2	1256
L7.1-3	Compliance with such requirements potentially has far-reaching adverse environmental effects and may result in significantly increased costs to the utilities and its ratepayers that will far outweigh the goal of reducing power-line caused wildfires in the State of California.	See L2-2	See L2-2	1256

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L7.1-4	<p>California Department of Forestry proposes revisions to its clearance and hazard tree regulations.</p> <p>Requires utilities, in order to maintain proper clearance, to "take into consideration any position through which the conductor and vegetation may move".</p> <p>In order to comply, CDF potentially requiring utilities to modify their vegetation management programs to remove and/or trim large numbers of additional trees. Modifications to utility vegetation programs could occur in three ways:</p> <p>Removal of stands of trees distant from conductors.</p> <p>Environmental Risks:</p> <ol style="list-style-type: none"> 1. Removal of Mature Trees not at imminent risk of failure; 2. Removal of certain species of trees (i.e., those with shallow root systems; those species susceptible to infection or infestation, but evolved to survive by compartmentalization). 3. Increase Fuel Loading by build up of tree debris on ground; 4. Removal of mature trees and stands of trees increases risk of wildfires because it stimulates growth of ladder fuels; 5. Promotes growth of non-native invasive species in cleared areas. 	See L2-2	See L2-2	1256

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L7.1-5	<p>Day-lighting of Canopies of Trees Above or to Side of Conductors (Despite Requisite Overhead Clearance)</p> <p>Environmental Risks:</p> <ol style="list-style-type: none"> 1. Eliminate ISA and ANSI-mandated targeted directional trimming 2. Removal of all overhanging and side branches potentially affects tree's stability and balance. Increases potential of lean toward conductors. 3. Improper or overtrim of trees adversely affects their health and vigor. Decreases tree's ability to fight off disease, insect infestation and increases likelihood of premature failure. 4. Decreases shade in areas necessary to support native species of animals and birds; decreases shade and cooling available to human populations in areas. 5. Aesthetics: Eliminates/Reduces "tree-lined" streets, roadways, driveways in SRA's. 	See L2-2	See L2-2	1256

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L7.1-6	Use of Tools and/or Tests to Detect Hidden Defects May Decrease health, vigor and stability of Trees: Environmental Risks: 1. Drilling and/or use of Incremental Borers on Large Numbers of Trees May Introduce a Path for Insect Infestation and other Infections. 2. Rules Requiring Inspection and Removal of all Limbs and Canopies, Regardless of Height of Tree, Increases Risk of Damage to Tree by Climbers and Personal Injuries to Climbers.	See L2-2	See L2-2	1256
L7.1-7	Proposed Regulations likely to require additional reviews and approvals for logging and tree-removal projects by other state and regulatory agencies responsible for preservation of native species, wildlands, parks, and other recreational areas.	See L2-2	See L2-2	1256
L7.1-8	Removal of additional trees and limbs to "daylight" the power lines, especially in forested and other wildland areas, could have significant impacts on animal, plant and other natural resource communities.	See L2-2	See L2-2	1256
L7.1-9	Examples of State and federally listed, and other sensitive species, that could be affected include: Bald eagle, Marbled murrelet, Northern and California spotted owl, Swainson hawk, California red-legged frog, Tiger salamander, Most birds are protected by the federal Migratory Bird Treaty Act, Some mammals, including woodrat, pine marten, etc.	See L2-2	See L2-2	1256

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L7.1-10	Trees provide cooling for streams to protect spawning areas of anadromous and other fish: Trout, Salmon, Cold water fish species (e.g. trout and salmon) depend on trees for shading to keep water cool enough for their survival.	See L2-2	See L2-2	1256
L7.1-11	The removal of trees or tree canopies will exacerbate erosion along roads and streams.	See L2-2	See L2-2	1256
L7.1-12	Archeological sites could be impacted while removing trees.	See L2-2	See L2-2	1256
L7.1-13	...where substantial evidence in the record supports a fair argument that a project may have a significant impact on the environment, an environmental impact report ("EIR") is required. <i>Id.</i> CEQA contains a strong presumption in favor of preparing an EIR. <i>Id.</i> ; <i>Friends of Mammoth v. Board of Supervisors</i> (1972) 8 Cal.3d 247 (CEQA should be interpreted to afford the fullest protection of the environment). If substantial evidence supports a fair argument, an EIR is required even if there is also evidence that the project will not have a significant impact. <i>No Oil, Inc. v. City of Los Angeles</i> (1974) 13 Cal.3d 68, 83. The fair argument standard prohibits the agency from weighing or balancing the evidence. Rather, the pertinent inquiry is simply whether the evidence supports a fair argument. If it does, the agency must prepare an EIR. <i>Friends of B Street v. City of Hayward</i> (1980) 106 Cal.App.3d 988, 1002.	See L2-2	See L2-2	1256

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L7.1-14	PAGE is concerned that the proposed changes to Section 1256 may have a significant impact on the environment, by essentially removing judgment and changing Section 1256 to require as part of "clearance" any position through which vegetation may move...it potentially expands the regulation to cover any tree with the potential, not likelihood, to fall into our lines, even if the tree is healthy and not dying or diseased. Specifically, this regulation could result in an extensive and accelerated loss of mature trees. Such a loss could in turn result in substantial erosion, which would cause significant impacts to water quality. It could also result in the loss of habitat for numerous special status species, including the loss of critical or protected habitat, and could also have significant aesthetic impacts, including impacts to scenic public vistas.	See L2-2	See L2-2	1256

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L7.1-15	One important benefit of an EIR versus a negative declaration is that an EIR contains an analysis of alternatives to the proposed project or regulation. 14 C.C.R. § 15126.6. If CDF declines to prepare an EIR, CDF would miss this opportunity to evaluate, with valuable public input, whether there may be alternatives to the proposed regulation that could achieve the CDF's objectives but with significantly reduced environmental consequences. CEQA notwithstanding, this exercise of evaluating alternatives is - or should be - a critical part of the regulatory process. An evaluation of alternatives is thus both a legal requirement under CEQA, and good practice.	CDF decision based on amendments described in L2-2 are found to reflect existing clearing requirements and impose no additional impacts. Such projects are determined to be categorically exempt status of CEQA under Class 1; section 15301 Existing facilities	no	
L8.1-1	...we propose that CDF include the following language as a new subsection (3) in Section 1257 on page 7, after line 9: (3) For mature trees whose trunks and major limbs are at least six inches from the line and of sufficient strength and rigidity to prevent the trunk or limb from encroaching within six inches under reasonably foreseeable local wind and weather conditions, and taking into consideration the reasonably foreseeable movement of the conductor, considering, among other things, the size and material of the conductor and its span length.	CDF found that this change was not consistent with requirements of 4293. Additionally section 1257 provides for lines to be near woody stems when using insulated tree wire. Additionally, the purpose and necessity of these regulatory changes was not to make substantial changes to clearing requirements. Also, CDF found that this comment may result in an additional hazard not justified in hazardous fire areas.	no	

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L8.1-2	PG&E respectfully requests that CDF delete the language previously proposed at page 6, lines 12-16, and add, on page 6, a new Section 1256.1 as follows: When an electrical transmission or distribution line owner has actual knowledge obtained through normal operating practices or notification by others of dead trees, old decadent or rotten trees, decayed trees weakened by decay or disease and trees or portions thereof that are leaning towards the line which may contact the line from the side or may fall on the line, the electrical transmission or distribution line owner shall fell, cut, or trim those trees or portions thereof so as to remove such hazard.	CDF found that this change was not consistent with requirements of 4293.	no	
L8.1-3	PG&E suggests that CDF delete the language previously proposed at page 6, lines 12-16, and consider adding, on page 6, a new Section 1256.1: Each electric utility serving an area within the State Responsibility Area shall have a vegetation management program established in accordance with accepted good vegetation management practices in the utility industry, taking into consideration the local conditions.	CDF found that this change was not consistent with requirements of 4293.	no	
L9.1-1	Sierra Pacific Power Company supports in their entirety the comments sent to you on February 4, 2005 and February 8, 2005 by Pacific Gas Electric Company and San Diego Gas & Electric Company, respectively.	Support noted; see appropriate comment corresponding to the comment support for response.	yes; as identified in comments supported by commenter	various sections

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L10-1	PG&E generally supports the proposed changes to Sections 1251, 1252, 1252.1, 1254, 1256 and 1257. However, PG&E believes that Section 1253 should include a thirty-day notice provision.	CDF found that providing information is not available 30 days in advance of the date for a pending fire season declaration by the Director due the unknown nature of weather changes that may rapidly change conditions to warrant a declaration.	no	
L10-2	PG&E fully supports the proposal to change Section 1253 by providing CDF with the flexibility to declare an early end to fire season for a particular county. The fixed end date in the current rule is not responsive to actual weather conditions in various parts of the state. Last year provides .a perfect example - the snows came to much of the northern and central Sierras in October, before the official end of the fire season.	no specific comment	no	
L10-3	<p>PG&E's sole concern, however, is that with the flexible start date, there is a risk that, without adequate notice, a utility could be caught off guard if CDF declared an early start to fire season in a given county. To address this issue, PG&E proposes that CDF provide thirty (30) days' notice that the start of fire season in a given county will begin no earlier than a given date. This provides CDF with appropriate flexibility and provides the utility with reasonable notice.</p> <p>In particular, PG&E recommends that CDF add the following additional sentence at the end of Section 1253: "The Director shall provide the public and the respective electric utility serving the area's) with not less than thirty (30) days' notice of the earliest anticipated start date for fire season in each county."</p>	CDF found that prudent vegetation management programs by utilities should have independent information based on their own observations of the nearing of fire season and a pending CDF declaration. To help accommodate this need, changes to the 15 day notice were adopted that the declaration will be posted on the internet and should provide responsive notification to utilities. Also see L10-2	yes; change made as described final regulation.	1253

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L10-4	To meet the requirements of PRC 4292, PG&E has crews that move county by county up the state clearing all of the poles before the start of fire season.. The more notice that CDF can provide to PG&E regarding the start of fire season, the easier for PG&E to fully comply and thus enhance public safety.	See L10-1 and L10-3	See L10-1 and L10-3	1253
L10-5	In, addition, PG&E respectfully request that CDF notify each utility on the specific date that fire season is declared for a particular county or area. Currently, there is no one central website or notification, and enhanced communication benefits everyone. PG&E therefore recommends that CDF also add the following additional sentence at the end of Section 1253: "The Director shall also post on its website d notify the respective utility serving the area when fire season is declared for a particular county or area."	See L10-1 and L10-3	See L10-1 and L10-3	1253

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L10-6	<p>...we propose that CDF include the following language as a new subsection (3) in Section 1257 on page 7, after line 9:</p> <p>(3) For mature trees whose trunks and major limbs are at least six inches from the line and of sufficient strength and rigidity to prevent the trunk or limb from encroaching within six inches under reasonably foreseeable local wind and weather conditions, and taking into consideration the reasonably foreseeable movement of the conductor, considering, among other things, the size and material of the conductor and its span length.</p>	<p>CDF found that this change was not consistent with requirements of 4293. Additionally section 1257 provides for lines to be near woody stems when using insulated tree wire. Additionally, the purpose and necessity of these regulatory changes was not to make substantial changes to clearing requirements. Also, CDF found that this comment may result in an additional hazard not justified in hazardous fire areas.</p>	no	
L10-7	<p>PG&E respectfully requests that CDF delete the language previously proposed at page 6, lines 12-16, and add, on page 6, a new Section 1256.1 as follows:</p> <p>When an electrical transmission or distribution line owner has actual knowledge obtained through normal operating practices or notification by others of dead trees, old decadent or rotten trees, decayed trees weakened by decay or disease and trees or portions thereof that are leaning towards the line which may contact the line from the side or may fall on the line, the electrical transmission or distribution line owner shall fell, cut, or trim those trees or portions thereof so as to remove such hazard.</p>	<p>CDF found that this change was not consistent with requirements of 4293.</p>	no	

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L10-8	PG&E suggests that CDF delete the language previously proposed at page 6, lines 12-16, and consider adding, on page 6, a new Section 1256.1: Each electric utility serving an area within the State Responsibility Area shall have a vegetation management program established in accordance with accepted good vegetation management practices in the utility industry, taking into consideration the local conditions.	CDF found that this change was not consistent with requirements of 4293.	no	
L11.1-1	...although § 1255 provides that a homeowner's landscaping around a subject pole can be exempted from Public Resources Code (PRC) 4292 only if such landscaping was planted and maintained "for the specific purpose of preventing soil erosion and fire ignition," PG&E allows the landscaping to escape the scythe if the homeowner simply planted it because it looked nice.	comment is not related to proposed regulatory amendment.	no	

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L11.1-2	...although § 1257 exempts the trunks of sound and living trees from the power line clearance requirements of PRC § 4293 only when such trunk "is the supporting structure to which conductor's) are attached," in practice, PG&E follows the "mature tree" policy found in Exemption 4 to Rule 35 of the California Public Utilities Commission's General Order 95 and allows the statuesque <i>Sequoia seinpervirens</i> along the Avenue of the Giants to escape the saw.	See L10-6	no	
L12-1	From our perspective, the discussion regarding identification and removal of hazard trees needs to continue. As I mentioned to you after the hearing on April 18 th , we are gathering industry information on how other utilities that operate in high fire danger areas manage hazard tree issues. Once we have gathered that information, we will initiate discussions with various stakeholders to explore what the best practices are or should be for identifying and removing hazard trees in the vicinity of high voltage power lines. We hope that CDF will participate in these discussions so that we can all benefit from the exploration of the issues associated with hazard tree management.	not related to proposed regulation	no	

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L12-2	As we discussed on the 18 th , PG&E would like to pursue a regulatory exemption for trees that have Major Woody Stems (MWS) (mature trees whose trunks and major limbs are at least six inches from the line and of sufficient strength and rigidity to prevent the trunk or limb from encroaching within six inches under reasonably foreseeable local wind and weather conditions). Per your instructions, we will be contacting Deputy Chief Goddard shortly to begin that discussion, and to propose a field visit to several MWS trees. We hope that once we are all familiar with the circumstances regarding a MWS exemption, we can pursue the appropriate procedural avenue to request the exemption in the regulations.	not related to proposed regulation	no	
L12-3	I want to reiterate that PG&E's goal is to improve both the regulations and our program. PG&E is not trying to minimize the amount of vegetation management work we need to perform or our responsibilities to manage vegetation around power lines,. Rather, we are looking for clarity in the regulations so that we can focus our resources on ensuring safety and compliance with all applicable regulations, and providing reliable service to our customers. Our relationships with the CDF at the local level are very productive in working toward the shared goal of fire safety in California. By working together to achieve our shared goal, we believe that we can all benefit.	not related to proposed regulation	no	

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L13-1	<p>1. 14 CCR Section 1252. Locations Where Cal. Public Resources Code (PRC) Sections 4292 and 4293 Apply: SCE understands and agrees with CDF's desire to eliminate ambiguity within the regulations implementing the Public Resources Code. However, the proposed changes may actually create ambiguity where none currently exists. As written, the proposed changes to Section 1252 suggest that PRC Sections 4922-4296.5 are intended to apply outside of state responsibility areas.</p>	<p>The amendments to section 1252 proposed in the 45 day notice was adopted, with some additional minor changes as shown in the 15 day Notice. The adopted regulation includes added language to clearly state that the Director will apply the statutes in SRA. CDF does not agree that this section create ambiguity about where the Director will apply the statute. Other authorities will apply the statue in their own jurisdictions. Also see L3-3.</p>	no change to amendments as proposed in the 15 Day Notice	1252
L13-2	<p>As you may be aware, the utilities are bound to follow the California Public Utility Commission's General Order (G.O.) 95, Rule 35, as it relates to line clearing requirements outside of state responsibility areas. As a result, SCE requests that CDF modify the language to eliminate any overlap between G.O. 95 and the CDF application of PRC 4292-4296.5.</p>	<p>CDF found that this change was not consistent with requirements of 4293. Utility clearing requirements for SRA are bound by law in PRC 4292-4296. CDF does not have the authority to categorically change clearing standards to G.O. 95 of the CPUC.</p>	no	
L13-3	<p>As currently written, Section 1256 states that "clearance shall include any position through which the conductor may move considering the size and material of which the conductor is made, span length, foreseeable wind velocities for any location and height, species and flammability of adjacent vegetation." In other words, Section 1256 currently allows utilities to apply reasonable professional judgment when determining clearance standards, taking into account certain variables such as wind velocity and tree height.</p>	<p>See L2-2</p>	See L2-2	1256

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L13-4	<p>However, the proposed changes to Section 1256 delete the above quoted language, and instead provide that minimum clearances shall "take into consideration any position through which the conductor and vegetation may move." This change would eliminate the clearly stated and reasonable factors currently considered when one implements Section 1256. Instead, the replacement language could be interpreted to expand the scope of Section 1256 to impose strict liability standards on utilities for vegetation which come in contact with power lines and causes fires. Under a strict liability regime, utilities could be found liable in situations where vegetation comes in contact with power lines as a result of, among other things: (a) landslides, (b) trees which were diseased, but showed no outward signs of being unhealthy during prior inspections, or (c) summer limb drop.</p>	<p>See L2-2</p> <p>4</p>	See L2-2	1256
L13-5	<p>Such a result is clearly not within the spirit of the Overview, as it clearly states that the intention is not to "change clearing standards." Further, such a result may necessarily require the utilities to take measures by trimming or removing vegetation that currently have no reasonable likelihood of coming in contact with power lines. Such a result would increase cost to the utilities, their customers, and may impose additional significant environmental impacts.</p>	<p>See L2-2</p> <p>5</p>	See L2-2	1256

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L13-6	SCE doubts that CDF truly intended to impose a strict liability standard with regards to minimum clearances, given the statements set forth in the Overview. Instead, SCE believes that CDF intends to "help clarify fire reduction requirements" as stated in the Specific Purpose of the Regulation section of the Notice. As such, SCE would welcome the opportunity to work with CDF to structure and more clearly define regulations that impose reasonable, but clear and unambiguous, standards for maintaining minimum clearances.	See L2-2	See L2-2	1256
S1-1	Our concerns, if adopted as originally proposed, these regulations would impose permits on the state utilities that would not only have adverse and environmental impacts, but if implemented would result costs to utilities and rate that would far out weigh the goal of reducing power lines caused by fires	See L2-2	See L2-2	1256
S1-2	The original proposed revisions to the clearance and hazard tree regulations, required utilities to maintain proper clearances taking into consideration any position in which the conductor or vegetation may move. We talked about that earlier and the earlier speaker addressed that and is a key issue that we would want to highlight and welcome the opportunity to work forward with CDF to make the regulations clear	See L2-2	See L2-2	1256

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S2-1	As California Department of Forestry and Fire Protection proposes revisions to these regulations, this may require the utilities to maintain the proper clearance by taking into consideration i position to which a conductor in vegetation may move this as it is stated right now. In order to comply, CDF can potentially require that utilities to modify their vegetation management programs. That would involve removing and trimming an additional many one hundred thousand potentially millions of trees	See L2-2	See L2-2	1256
S2-1.1	This could actually necessitate the removal of more individual or multiple stands of trees that are adjacent to the electric utility corridors. Some environmental risks could occur because that would remove many mature older mature trees that are adjacent to the power lines, not underneath the power lines, and those trees would not necessarily be at eminent risk or a hazard as the regulations are written right now. So we are seeing potentially having to remove a tree that a week ago we would not have to remove.	See L2-2	See L2-2	1256
S2-2	Removal of certain tree species with shallow root systems would have to happen also. Species susceptible to infection or infestation, but which have evolved over time due to compartmentalization, those trees we feel could be suitable, we believe, if the propose language we have to take those trees out.	See L2-2	See L2-2	1256

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S2-3	Some other environmental risk associated with removing these trees are increased fuel loading, by build up tree debris on the ground, removal of mature trees in stands and trees increase the risk of wildfire because it assimilates the growth of latter fuels, promotes the growth of non native invasive species in the cleared areas. You'll have reduced evapo transformation in clear quarters which may increase erosion and may increase landslides in non stable soils.	See L2-2	See L2-2	1256
S2-4	The second qualification or program will be the daylight penalties placed on trees beside or above the conductors. Environmentalist there eliminated mandated target directional trimming. Removal of all crowning overhangs and side branches potentially affects the trees imbalance and increases the potential to lean away from the conductor. Improper over trim of trees adversely affects their health and vigor, and increases the trees inability to fight off disease and pest infestation and increases the likelihood of premature failure.	See L2-2	See L2-2	1256
S2-5	You can also decrease shade in open areas of sunlight in areas requiring shade to support native species of plants, animals and birds and decreases shade a cooling ability in human populations in urban and rural areas. Lastly will reduce the aesthetics by reducing tree lined streets and roadways, driveways, front yard backyards.	See L2-2	See L2-2	1256
S2-6	Third modification would be the use of tools and to detect a defect in the trees adjacent to the corridors and this may decrease the health and vigor of the trees.	See L2-2	See L2-2	1256

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S2-7	The special removal limbs regardless of the height of the tree increases the risk of damage to the tree by climbers and potential personal injury to the climbers also.	See L2-2	See L2-2	1256
S2-8	Some other situations we will run into with the proposed regulations that impact utilities are related to other government agencies. Compliance of other statutes, rules, regulations and property rights of third parties, require us to comply with rules and regulations of their own. Such agencies include US Forest Service, Caltrans, Ca Fish and Game, US Fish and Wildlife Service, US Army Corps of Engineers, Regional Water Quality Board, National Parks, State Parks, Ca Coastal Commission.	See L2-2	See L2-2	1256
S2-9	Proposed regulations would likely require additional reviews and approvals. Tree removals projects by the state regulatory agency responsible call for the preservation of native species while in parks and other recreational areas.	See L2-2	See L2-2	1256
S2-10	Probably the biggest impact that we would see out there in removing large numbers of trees that may potentially hit the lines is the public itself, our customers. PG and E's is limited to the removal and trimming of trees while within its right-of-way current rules and regulations require utilities to obtain the consent of the property owner for trimming and removal trees outside of the right-of-way	See L2-2	See L2-2	1256

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S2-11) Adoption of proposed regulation will require dramatic increase in notification of property owners and it is anticipated that it will result in increasing enforcement efforts by California Department of Forestry and Fire Protection to persuade property owners to present broader tree removal.	See L2-2	See L2-2	1256
S3-1	As Paul mentioned a large removal of vegetation would cause the daylight situation with power lines, this could have some negative impacts on animals and plants and other natural communities. As you all know trees provide nesting sites for birds, also for mammals. Shown here is the marbled murrelet on the branch in the upper left corner. It is actually a seabird but it comes in to overgrown forests to nest. Should this regulation be interpreted to cause a lot of vegetation removal, this would be key species that we would need to be considerate of and we would have to interact with US Fish and Wildlife Service to allow our work to continue and build in appropriate protection measures	See L2-2	See L2-2	1256
S3-2	Another species we would have to interact with is the Spotted owl, both the California Spotted owl and the Northern Spotted owl. Any kind of impacts to these two species would be considered significant	See L2-2	See L2-2	1256

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S3-3	There is also the federal Endangered Species Act that protects invertebrates as well. The Valley elderberry long horned beetle is a major issue for PGE and particularly with respect to vegetation management programs. In fact those photographs in the lower left, of the beetle and his only host plant which is the elderberry, was taken on an Oakhurst project above Fresno with approximately 23 miles of power lines. This was a pole replacement project which affected some vegetation. There were major issues with that small of an area with this bug. It is illegal to cut a branch greater than one inch in diameter of the elderberry plant. These plants grow from shrub, little shrubs to trees, treelike forms and they intertwine with the vegetation as well with our facilities. So we would need to be very cognizant of how any of our projects would affect the elderberry or the beetle.	See L2-2	See L2-2	1256
S3-4	Also as Paul mentioned the trees provide shading and cooling. This is particularly significant in riparian areas where species such as the California red legged frog and other sensitive amphibians, such as the yellow legged frog and other inhabitants, use vegetation and any kind of vegetation removal would be watched very closely. We would have to have appropriate take permits from the fish and wildlife service if we have impacts in those locations. In addition anadramous fish, fish that migrate to the ocean and come back, as well as, cool water species ,which is trout, will be affected by vegetation removal	See L2-2	See L2-2	1256

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S3-5	In their natural state, trees provide erosion control and they also prevent siltation. Large removal of trees would only increase siltation affecting the frogs and fish. And also one thing that is often overlooked is that large scale vegetation projects require roads to get the vegetation equipment in and the vegetation out. These roads are major erosion concern and a lot of the erosion control measures would need to be implemented.	See L2-2	See L2-2	1256
S3-6	Opening up a canopy or creating a pathway through vegetation also creates a pathway for noxious weeds which is a serious issue for California. In particular there is a lot of concern about limiting the spread of noxious weeds in the state. Similarly, there are other pest species such as Brownhead cowbird that use these corridors to invade habitats that would be otherwise occupied by our native birds. The Brownheaded cowbird is a nest parasitic species that looks for corridors such as this and then actually finds other bird's nests and kick out the young. Then the other species bird incubates the eggs the cowbird leaves and then in that way they are able to spread their population. This is a non-native species that is creating a problem that way. All the migratory birds are protected by the Migratory Bird Treaty Act so any large scale vegetation removal will definitely affect nests and active nests of these birds and in some cases inactive- that means if they have eggs in them or not-are protected under the Migratory Bird Treaty Act.	See L2-2	See L2-2	1256
S3-7	I also want to touch on the fact that archeological sites would be impacted.	See L2-2	See L2-2	1256

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S4-1	My testimony y has been largely mooted by the opening comments (by Chief Hoffman) to review (the 45 day language) in a committee.	See L2-2	See L2-2	1256
S4-2	Concern on regulation 1256 the position tree may move a including falling tree. Minimum clearance shall take into consideration any position from which the conductor and vegetation may move. Because (if as revised) if a healthy tree 80 feet away may fall, this will cause a bigger clearing r/w. If only factor is if it could hit the lines, then aggressive clearing would need to be taken. Would not have a concern if amended as proposed by PGE (to include the word "sway" instead of "move").	See L2-2	See L2-2	1256
S5-1	EEl requests CDF closer review comments submitted by Californian Selective Utilities identifying ambiguities in the proposed rules. We request CDF give serious consideration to the clarifying language recommended by the utilities.	CDF considered all comments	no	
No comments listed as S6 or S7				

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S8-1	The first point that they wanted to make, which was indicated in the letter, was the notice requirement for fire season. From PG&E's perspective they would like to have some notice so that they can prepare and they understand that CDF also has the need to prepare and they need to establish and to clarify fire season at some point	CDF is unable to provide 30 day advance notice of fire season start or end as many times CDF does not know until sometimes the day before that they are going into fire season. It is not unusual to get a weather event that puts CDF over the edge. Also, in general there should be no surprise to utility companies that fire season is nearing as those utility companies that routinely plan for fire hazard reduction during fire season are typically aware of the factors relating to the beginning or end of fire season.	no	
S8-2	is there some kind of activity that you go through that prepares you for fire season that gives PG&E that trigger as well that we would be able to anticipate.	CDF starts conference calls, when the weather appears to be warranted and normally those conference calls are once a week and they made be even tighter than that. It is all weather driven. There is no formal process, if you will. Calls to Region Offices or operations centers out of Riverside and Redding and close contact with those individuals, would give you some kind of idea of what is happening.	no	
S8-3	in terms of fiscal implications is there ramping up of staff to meet the fire season. Does that happen in a time period in advance of the declaration of the fire season?	Yes	no	
S8-4	is there a way that you could notify when you know that the fiscal implications of fire season staffing initiation)?	Because it is an informal kind of a thing I would be reluctant that I would say we are beginning to ramp up. I would prefer to keep it informal and have you call us. It should be no huge surprise when you all know when things start drying out. I don't know that we have historical records on which particular date we started fire season. It can vary from State Department to State Department. The south is going to go in first. None of this should be of any huge surprise.	no	
S8-5	it is like our counties in the State Parks Regulations where there is this specific date where we get around and it could be a notice that could say, no earlier than, or it is anticipated that fire season will begin at two weeks from today and notify us of that and that would benefit for our purposes.	CDF could not commit to that because of the uncertainty of impending fire season . SeeS8-2 and S8-3.	no	
S9-1	I understand, and we do prepare for fire season well in advance not knowing when exactly it is going to be declared. It would be very helpful to me to be notified of the practices that often come out a few days or even a week before the actual date.	Yes, press releases will be posted on CDF official website of official declaration dates.	Yes, change made to final adopted regulation following public input during 15 day notice hearing.	1253

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S9-2	That would be good. We could have that posted to the website where you would see the copies of the press releases. That would be very helpful.	See S9-1	See S9-1	See S9-1
S9-3	Notification is my biggest issue, because we do deal with prop 46 on each county.	See S9-1	See S9-1	See S9-1
S8-6	What we are asking for, we proposed it in our letter in February was recognition that these major wooden stems that are within 4 feet be recognized as an exemption from potential permit.	See L3-6 and L10-6. Scope of proposed amendments do not included revisions to statutorily required clearing requirements on SRA land. CDF has express an interest in working with utility companies on this issue in a separate forum.	no	
S8-7	There exists an exemption in rule 35 of June 95 for major wooden stands within 6 and 18 inches and what we are seeking here is to really in essence make the regulations acknowledge that there are many, approximately 11,000 that would fit within this exemption of healthy large trees that have been met for many instances for hundreds of years and impose no safety or liability of concern yet they are within 4 feet. While we have not decided in the past and there is an acknowledgement that they do not need to be removed. This is an opportunity with the regulation with you to include such an exemption so that it is clear with the regulations and is consistent with the other regulations	See L3-6 and L10-6. Scope of proposed amendments do not included revisions to statutorily required clearing requirements on SRA land. CDF has express an interest in working with utility companies on this issue in a separate forum.	no	
S8-8	I am not sure how much of the line in the one thousand trees have tree wire currently. Tree wire is typically installed where there is more chances of crushed or vegetation coming into contact with the outside area.	CDF recommends that use of tree wire for situations where transmission lines are nearer than the statutorily required distances be used when consistent with 14 CCR 1257.	no	
S8-9	If we were to use an exemption for these trees, we would be installing tree wire where it wouldn't solve or address a safety concern that currently exists.	CDF recommends that use of tree wire for situations where transmission lines are nearer than the statutorily required distances be used when consistent with 14 CCR 1257. Tree wire provides insulation between flammable tree parts and electrical transmission lines which will reasonable avoid fire hazard in often very hazardous wildland situations.	no	

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S8-10	The trees that we are talking about are the trees that have substantial girth from the position that we are looking at these trees, they do not pose a safety hazard if they happen to be four feet of the lines. There are no safety concerns.....	See S8-9. Also this request is beyond the scope of the proposed regulatory amendment.	no	
S8-11	I guess we could look into that, it would be a cost. I would like to spend our vegetation management resources to address the true public safety concerns. These trees, we have not been cited by them by your local folks. There is an acknowledgement that they are there. They do not pose a safety concern and they haven't in decades. I understand that the purpose was not to open the door from your perspective to other changes. From our perspective we have two sets of substantial regulations that we need to comply with. One recognizes that trees within 6 to 18 inches are exempt, given a certain criteria and another set of regulations does not. Yet in reality out in the field nobody is challenging the safety concerns of these trees. So to address it by utilizing a different exemption seems to be from our perspective a waste of resources. We have tried to seek exemptions through CDF for these and received no response and yet we have not received an L8-38. There is eleven thousand or so trees that are within the clearance requirements.	See S8-7, S8-8, S8-9, and S8-10	no	

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S10-1	<p>We have eleven thousand of them and it is not that we cannot handle individual trees on a one by one basis, but that seems foolish. If you look at that one on the left for example, whether that tree is insulated in a tree wire it does not enhance the safety. That tree is not going to contact that wire even though it is within 4 feet. A redwood tree is not going to sway and hit that wire and that wire is not going to hit the tree, because the sway of the wire is not going to be 4 feet. Making a tree I don't see adds to public safety in any way, but adds our customers money and money can be spent elsewhere more efficiently in the program. We are not trying to reduce the amount we are spending on vegetation management. We are going to file a Rey case this summer with a proposed spending amount and what I am saying is before for that amount I cannot get into it, but we are hoping that you will support us. It just seems that we have one regulator that says it is ok and now that CDF participated we are trying to merry it up and I don't know if the tree wire helps safety.</p>	See S8-7, S8-8, S8-9, and S8-10	no	

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S10-2	The people in the field acknowledge, and the relationship with the people in the field as far as I understand it, people tell me, the relationship on the field and your folks understand this and recognize the safety issue so they don't make a issue of this. We thought with this opportunity we thought we would try and open the door and we are trying to drive something bigger through the door than you anticipated. If this is not the forum for that we would somehow continue the dialogue to do some of that. We think it enhances the safety because we feel the money can be spent better and we are not sitting here with something that is a technical violation that everybody knows.	See S8-7, S8-8, S8-9, and S8-10	no	
S10-3	The pattern in practice I don't see a problem. The lawyer in me sees regulations that say are not technical violations that don't like that. It concerns me that we have trees that we know that are not 4 feet, wires that we know are not 4 feet from trees and it is our area and I don't like telling people taking to take a pass on that.	See S8-7, S8-8, S8-9, and S8-10	no	
S10-4	[We can assume we are in violation and be cited,] but in reality they[CDF] won't because they hear we are doing something in improving the regulations and they appreciate that it is a different change, but if they can improve the regulations that gets us the way people want us managing tree trimmings. They want us managing removal of trees and at least on this one we agree that nobody wants us removing those redwoods. The regulations tell me that I should be removing those trees.	See S8-7, S8-8, S8-9, and S8-10	no	

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S8-12	The reason we are asking for these types of exemptions is right now technically we are out of compliance. We don not have tree wire there, we technically need to remove those trees there. I don't think that is what you are asking us to do or would like us to do.	See S8-7, S8-8, S8-9, and S8-10	no	
S8-13	The reason we proposed it in this form and considered it to be an appropriate form is that the statute says what it says. If the regulations from our perspective are intended to assist the regulated in complying with the statute, than they are from our perspective they are the words we look for to implement the statute. That is the purpose of regulations and in that spirit, we were trying to see clarification and clarity around what was expected of the utilities in addressing how to identify hazardous trees.	See S8-7, S8-8, S8-9, and S8-10	no	
S8-14	What we are trying to do is see clarity on what CDF expects the utilities to do by way of hazard tree identification and removal. It means any suspected hazardous tree possibly that can fall over the line. That is not an adequate criteria for us to go by because that would mean 20 million plus trees would be suspect and there would be all sorts of environmental and zoning issues and national forest issues and so forth to remove all those trees and resources. There is a need for reasonable criteria around the hazard tree removal. That is what we are trying to address here.	See S8-7, S8-8, S8-9, and S8-10. Criteria for hazard tree removal is described in PRC 4293 and further interpreted in this regulation adopted under 14CCR 1256.	no	

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S8-15	The G.0.95 has that perspective has that reasonableness criteria in it by requiring the utilities to have actual knowledge of a hazard tree and then foresters know if --identifying a hazardous tree is not an accurate science. We are not ever going to be able to identify every hazardous tree. They can look perfectly healthy and the next day they can fall. So, what we are trying to accomplish in this proposal in the regulations is to seek clarity in the regulations in what it is and an objective criteria for an appropriate hazard tree identification removal program.	PRC 4293 speaks for itself I serves CDF well throughout the years. Utility clearing compliance has a demonstrated a track record and a history of not abusing the enforcement aspects in terms of CDF citing you or calling you civilly liable for suppression costs when interpretive judgment calls need to be made. CDF has been quite prudent in its application of the clearing regulations when we feel you have not met the standards of 4293. Commentor's proposal is a huge change from existing standards from the PRC and in terms of public policy shifts the burden or the liability to society and the public and away from the utility. That is a huge public policy decision that CDF prepared to make in this forum. Also see S8-7, S8-8, S8-9, and S8-10.	no	
S8-16	. What we are trying to accomplish here is in our view, to the benefit of the public that we need to manage the vegetation around our facilities and there are certain ways you could do that. You can clear cut 100 feet on both sides, all the trees could fall onto our lines and you and I would be in agreement and we would both be happy. That is not a reality. We have to deal with all the other aspects of vegetation management within the power lines. In order to do that and in order to meet your goals, which are fire safety, which happen to be our goals as well. To meet reliability, to meet safety and from our perspective, I am not sure if it is the same goal for you, but it is customer rate pair interest. We need to have a program and we need to have a program that meets your needs as well as our needs as well as P.E.C.'s needs as well as our customer's needs.	See S8-15	no	

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S8-17	All were asking for is clarity in the regulations that would give us that ability to have a program that meets your needs and our needs and the other stakeholders as well. We are not trying to shift liabilities to society. The actual knowledge standard, the intent behind that standard in G.O.95 is so that when a tree falls down, and utility had a approved program to go out and identify hazardous trees and did not identify that tree, that the utility would not be held liable for that tree failure, if they did all that was required under a prudent hazard tree identification removal program.	See S8-15	no	
S8-18	Is It CDF's position that the utilities will remain liable, in spite of its prudent program and complying with it and spending the resources it needed to meet that requirement.	Liability assessments made by CDF will be in accordance with existing statues and regulations, regardless of the existence of a "prudent program". One of the factors in this assessment is the implication of negligent behavior. Typically CDF evaluates each utility related fire to determine negligence and cost liability, if any.	no	

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S8-19	Are other proposal which is on the next page, which talks about adopting an industry standard, prudent industry practice standards within the regulations that would give us some parameters around what would be considered to be a prudent hazard tree and indication removal program. That is not the actual knowledge, it is a different approach, but it would basically say if the utility has a prudent program, complied with that program, does what it says it will do and meets the industry standards and even exceeds industry standards, whatever the standards are we decide, but if we do all those things and yet there still remains a tree that falls into the lines and causes property damage and injury, we are looking for that kind of clarity. If that accident happens, what I am hearing from CDF, that there is no such thing as an accident.	See S8-15	no	
S8-19 cont.	It is the utilities fault and you may say that you have been prudent and appropriately enforced the regulations and that may be so, but what you are asking us to do is be at the mercy of the CDF Enforcement branch on when you would consider us to be liable because we do not have any objective criteria to go by.	The objective standard is PRC 4293 and that is what we have to proved. Citations result when the standard has not been met there is an objective criteria for determining that. Also see S8-15.	no	
S8-20	Those are words that have been subject to very different interpretations and what were asking for is a single interpretation that you and I can agree to and comply with.	See S8-19	no	

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L= Letter S=Speaker				
Comment #	Summary of Comment	Response to Comment	Revision Needed	Section
S8-21	I think that the industry association and the utility association international association international society of our horticulture could come up with a list of elements on what is prudent hazard tree and indication rule program would look like with each of those elements. If the utilities have each of those elements and if they comply with those elements.	See S8-19	no	
S8-22	A good program could not have been identified and yet and all were asking in these regulations is to reach agreement with our regulator on what is expected of us, so when we go out both of us can come up with the same conclusion in compliance yes, compliance no.	See S8-19	no	
S--23	if we could agree with what is a prudent program and if we could agree with what could apply with those elements of a prudent program would meet with the threshold of what is reasonable from an enforcement prospective. Then each of those individual instances become less controversial then we become, then we look at a specific site and look what was available to the inspector prior to failure, we could make a much better judgment call at that point.	See S8-19	no	
S8-24	A prudent program would meet industry standards and I don't believe that the two parties here are going to be able to come up with what is an industry standard. It would require input from the industry and all the parties that are involved with vegetation management.	See S8-19	no	

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S8-25	If you go to the utility Arbor Association and you go to the utility and the utility section, what they do for hazard tree identification removal is a bit different. That is why we need to get the industry experts in the room with the utility experts in a room who are also arborists and foresters and everybody together and talk about this.	See S8-19	no	
L14-1	As discussed in the workshop last week, SDG&E would respectfully ask the CDF to consider aligning Public Resource Code, section 4293 more closely with California Public Utilities Commission, General Order 95, Rule 35. There are two specific areas, described in more detail below, that we believe should be incorporated into PRC 4293; 1) actual knowledge of hazard trees	CDF recognizes the possible efficiency of matching SRA utility clearing regulations with G.O. 35. As , mentioned in L-13-2, subsequent efforts will consider this magnitude of change. Currently this change is beyond the scope of the purpose of this regulation and not consistent with current statutes.		
L14-2	As discussed in the workshop last week, SDG&E would respectfully ask the CDF to consider aligning Public Resource Code, section 4293 more closely with California Public Utilities Commission, General Order 95, Rule 35. There are two specific areas, described in more detail below, that we believe should be incorporated into PRC 4293; ... 2) major woody stem exception.	See L3-6, L10-6, S8-7	no	
L14-3	A closer alignment of the two requirements (General Order 95, Rule 35 and Public Resource Code 4293) will enable the electric utilities to standardize facility inspection criteria and resulting follow up work, regardless of SRA versus LRA.	See L14-1	no	
L14-4	This will result in more consistency of utility operations thereby enhancing the utility's ability to comply with the regulation, which are both the CDF and the electric utility's goal.	See L14-1	no	

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L14-5	There is a third area that SDG&E would recommend incorporating into the regulation that would address CDF's concern about ensuring the utilities are making all reasonable efforts to identify vegetation not in compliance with the regulation. It requires that utilities have a Vegetation Management Program that meets generally accepted utility industry practice. Below is language that SDG&E would recommend CDF consider for incorporation into the regulation. Vegetation Management Program - Any electric utility with overhead power lines serving an area within the State Responsibility Area shall have a vegetation management program established in accordance with accepted vegetation management practices in the utility industry, taking into consideration local conditions.	CDF found that this change was not consistent with requirements of 4293. While, the suggested language could be additive to the statutory requirements, the Department cannot delete existing statutory requirements and replace them with a potentially lesser requirement.		