

BOARD OF FORESTRY AND FIRE PROTECTION

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Update Report:
Utility and Public Agency Right-Of-Way Exemption Workshop
October 20, 2020

The Forest Practice Act (Act) authorizes the Board of Forestry and Fire Protection (Board) to provide an exemption from all, or portions, of the Act for the cutting or removal of trees for the purpose of constructing or maintaining a right-of-way for utility lines (PRC § 4584(a)) and prohibits a public agency from being required to submit a timber harvesting plan or file an application for conversion with the board where the purpose of its timber operations is to construct or maintain a right-of-way (PRC § 4628(a)). While the Board's current regulations identify that such activities are exempt from conversion permits and timber harvest plans per 14 CCR §§ 1104.1(b) and (c), other regulations (or lack thereof) related to these exemptions lack clarity and maintain the potential for significant issues related to that lack of clarity.

In June of 2020, the Board's Joint Committee began development of a potential regulatory solution to address these issues through the revision of the conversion exemption regulations within 14 CCR § 1104.1 *et al.* The revisions to the regulations are intended to create standardized regulatory methods for disclosure of these specific, exempt, timber operations, while providing reasonable operational conditions which will allow the necessary work of constructing and maintaining utility and public agency right-of-ways to occur in a manner which prevents environmental impact.

Since the initial discussions in June, the Joint Committee has held discussions on this topic at their monthly meetings and the Board has received numerous comments on this issue. The majority of the comment received to-date has come from non-utility stakeholders who have expressed concerns at the current lack of disclosure and perceived oversight accompanying the regulatory process which permits these timber operations. While the Board has not received a significant number of comments from other agencies or utility stakeholders, it would like to encourage those entities to participate in this rulemaking effort in order to produce regulations which are practical, reasonable, and enforceable for all parties.

To that end, the October 20, 2020 regulatory workshop to discuss this potential rulemaking should be used to identify those specific and substantive regulatory requirements which are necessary to achieve the goals of this rulemaking in an open, public venue.