

# PACIFIC GAS AND ELECTRIC COMPANY

## Vegetation Management Utility Exemptions

April 6, 2020



# Board of Forestry – PG&E Feedback on 1104.1 Plead

One of the effects of climate change is that electric utilities must undertake **exponentially more vegetation management work in order to prevent wildfires.**

This fact is underscored by the recent **imposition of significantly more detailed requirements** from both the Legislature and CPUC (see SB 901, AB 1054, CPUC General Order 95, Rule 35 etc.).

PG&E's Wildfire Mitigation Plans **compound the need for the timely execution** of routine maintenance and hazardous tree mitigations.

Forest Practice Rules need rapid and meaningful revision to recognize:

- ✓ California Public Utilities Code Section 8386 (utilities must minimize risk of catastrophic wildfires)
- ✓ Utility wildfire mitigation plan commitments
- ✓ General Order 95, Rule 35 requirements

Instead, CAL FIRE has expanded its interpretation of the applicability of 1104.1. **This has slowed and, in some instances, stopped utility VM work for periods of time.**

Some of the changes proposed in the draft 1104.1 plead would exacerbate the conflicts between Legislative and CPUC mandates and those of the Board of Forestry/CAL FIRE.



# PG&E Vegetation Management Overview

	① ROUTINE VEGETATION MANAGEMENT	② ENHANCED VEGETATION MANAGEMENT (EVM)	③ POLE CLEARING/ VEGETATION CONTROL	④ CATASTROPHIC EVENT MEMORANDUM ACCOUNT (CEMA) TREE MORTALITY	⑤ TRANSMISSION ROW EXPANSION
CLEARANCE AREA	<p><b>NON-HFTD:</b> 1.5-ft. radial clearing (cutting dead and dying vegetation)</p> <p><b>HFTD:</b> 4-ft. radial clearing up to 12-ft. (cutting dead and dying vegetation)</p>	<ul style="list-style-type: none"> <li>• 12-ft. radial clearing</li> <li>• Addressing overhanging limbs and branches 4-ft. out from the lines and up to the sky</li> <li>• Cutting down dead and dying trees</li> <li>• Assessing trees that may need to be addressed if they are tall enough to strike the lines; cutting down trees based on that assessment</li> </ul>	<ul style="list-style-type: none"> <li>• Cutting down all flammable material and vegetation in a 10-ft. radius around the base of the pole or tower</li> <li>• Cutting brush, limbs and foliage up to 8-ft. above the ground</li> <li>• Cutting down all dead, dying, diseased or dried vegetation from 8-ft. above the ground to the top of the power lines</li> </ul>	<ul style="list-style-type: none"> <li>• Cutting down dead and dying trees</li> </ul>	<ul style="list-style-type: none"> <li>• Cut vegetative fuels and incompatible vegetation within the cleared corridor</li> <li>• Expand cleared corridor width where narrow</li> <li>• Evaluate all trees outside the corridor that could reach the line; cut Danger Trees</li> </ul>
WORK AREAS	<ul style="list-style-type: none"> <li>• Across entire service area and along all distribution lines</li> </ul>	<ul style="list-style-type: none"> <li>• Conducted in HFTD Tier 2/3 areas</li> </ul>	<ul style="list-style-type: none"> <li>• Conducted in State and Federal Responsibility Areas (SRA/FRA) and discretionary locations in the HFTD</li> </ul>	<ul style="list-style-type: none"> <li>• Conducted in HFTD Tier 2/3 areas and Zone 1</li> </ul>	<ul style="list-style-type: none"> <li>• Conducted primarily in HFTD Tier 2/3 areas</li> </ul>
WOOD MANAGEMENT	<ul style="list-style-type: none"> <li>• Typically left on site (legally belongs to property owners)</li> </ul>	<ul style="list-style-type: none"> <li>• Available at no cost to customer (must submit Request for Wood Management Form)</li> </ul>	<ul style="list-style-type: none"> <li>• Wood cut is available for hauling</li> </ul>	<ul style="list-style-type: none"> <li>• Available to customers in specified areas</li> </ul>	<ul style="list-style-type: none"> <li>• Typically left onsite</li> </ul>
LAW(S)/ REGULATION(S)	<ul style="list-style-type: none"> <li>• General Order (GO) 95, Rule 35</li> <li>• Public Resource Code (PRC) 4293</li> </ul>	<ul style="list-style-type: none"> <li>• General Order (GO) 95, Rule 35</li> <li>• Public Resource Code (PRC) 4293</li> <li>• Public Utility Code (PUC) 8386</li> </ul>	<ul style="list-style-type: none"> <li>• Public Resource Code (PRC) 4292</li> </ul>	<ul style="list-style-type: none"> <li>• CPUC Resolution ESRB-4</li> </ul>	<ul style="list-style-type: none"> <li>• Expands clearance distances beyond minimum regulations to reduce vegetative contact, outage and fire ignition risks</li> </ul>



# PG&E Legal Position on Utility Exemptions

UEs exempt an entity from conversion and timber harvest permits, and should not apply to PG&E's routine maintenance, hazard mitigation or emergency response work for the following reasons:

Utility ROWs that are periodically cleared do not meet the definition of “timberland” as they are not “*available for ... growing a crop of trees* of a commercial species used to produce lumber and other forest products”

- Within the utility ROW, work is being routinely conducted to **maintain the utility corridor that has already been converted.**

PG&E's vegetation management work outside of cleared corridors **does not meet the definition of “timber operations”** since it does not meet “commercial purposes” as outlined below.

- PG&E always cuts trees for the safe and reliable maintenance and operation of the facilities and never cuts trees for the purpose or intention to **offer for sale, barter, exchange or trade.**
- PG&E cutting trees for the safe and reliable maintenance and operation of our facilities does not **convert the property to a new use each time we cut or trim a tree.** The landowner determines the use of the property not PG&E, and the landowner can continue to use the property as they have after our work.
- **Outside the ROW,** Danger Trees are removed individually and the area continues to be available for growing a crop of trees, so the removals do not constitute a conversion out of timberland uses.

# Generally Applicable Rules and Regulations

**PG&E must comply with the following environmental and regulatory requirements when conducting its vegetation management work:**

1. Public Utilities Commission of California General Order Nos. 95, 131-D and 166
2. CPUC Resolution ESRB-4
3. California Public Resource Code § 4292 – § 4295.5
4. California Public Utility Code § 768.6 and § 8386
5. Title 14 California Code of Regulations §§ 1250-1258
6. California Independent System Operator (ISO) Maintenance Plan including Federal Energy Regulatory Commission (FERC) Standard FAC-003-4
7. American National Standards Institute (ANSI) A300 – Part 7 Integrated Vegetation Management
8. Wildfire Emergency declaration – Executive Order N-81-20 and various State of Emergency declarations (8/18 for heat wave and lightning)
9. Clean Water Act
10. California Fish and Game Code
11. National Historic Preservation Act
12. Federal and State Endangered Species Act
13. California Coastal Act

# Recommendations to Amend Regulation



# 1. Timber Operations

Existing Language Citation	Comments/Recommendations
<p><b>Page 2, line 22; Page 3, line 1</b>            Timberland... means land... which is available for, and capable of growing a Crop of Trees of a Commercial Species used to produce lumber and other forest products... Nothing in this definition precludes a determination that lands subject to a utility or public agency right-of-way... are “available for, and capable of, growing a Crop of Trees.”</p>	<p><b>If a utility or public agency right-of-way exists, the land is no longer “available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products,” hence, is not timberland.</b></p>
<p><b>Page 3, line 6</b>            Timber Operations, provided that “commercial purposes”... also includes the construction or maintenance of a right-of-way, insofar as the cutting or removal of trees for those purposes has a reasonable nexus to a commercial activity, such as providing safe and reliable utility service...</p>	<p><b>For purposes of this section, the trimming or cutting of trees from an existing utility ROW does not constitute “Timber Operations” when performed pursuant to PRC § 4292 ,PRC § 4293, PRC § 4295.5, GO 95 Rule 35 or PUC § 8386.</b></p>
<p><b>Page 33, line 11</b>            The LTO shall not conduct Timber Operations until receipt of the Director's notice of acceptance. Timber Operations shall not be conducted without a valid on-site copy of the Director's notice of acceptance of operations and a copy of the notice of right-of-way exemption, as filed with the Director.</p>	<p><b>Utility would have problem with staffing LTOs; potential to add Line Certified Tree Trimming Operators for utility ROW work as an alternative to LTOs.</b></p>
<p><b>Page 34, line 20</b>            Timber Operations may be conducted during the Winter Period. Tractor Operations in the Winter Period are allowed under any of the following conditions:            (A) During dry, rainless periods but shall not be conducted on Saturated Soil Conditions that may produce Significant Sediment Discharge...</p>	<p><b>Public Safety work must occur year-round regardless of conditions. PG&amp;E asks that the board develop a process for emergency work.</b></p>
<p><b>Page 36, line 19</b>            Prior to the commencement of Timber Operations, The LTO shall notify the Department of the actual commencement date of operations.</p>	<p><b>For utilities, it will be an LTO or a utility qualified tree-trimming contractor.</b></p>
<p><b>Page 37, line 1</b>            The submitter of the notice of right-of-way exemption shall, within one month from the completion of Timber Operations... submit a work completion report to the Director.</p>	<p><b>This language was taken from previous less than three-acre applications (from 1104.1(a)) which is a discretionary and one-time action. This is inappropriate for utility vegetation management work that is performed year-round and never completed.</b></p>
<p><b>Page 37, line 8</b>            Large old trees... shall not be harvested unless done pursuant to the following conditions, except that such trees that are also Danger Trees may also be removed...</p>	<p><b>PG&amp;E is not harvesting timber for the timber itself. PG&amp;E is in the business of providing electric service to these areas and trimming and cutting trees is important to ensuring the ongoing safety and reliability of its lines and facilities.</b></p>

## 2. Mapping

Existing Language Citation	Comments/Recommendations
<p><b>Page 31, line 16</b>            A map that includes a seven-and-one-half (7 1/2) minute USGS quadrangle map, or its equivalent, depicting the information as required by this paragraph and represented at a scale of at least 1:12,000.</p>	<p><b>Requirements for ROW mapping should be flexible because of the large size of the work areas. Alternative mapping requirements should be adjusted to allow for modern technology.</b></p>
<p><b>Page 32, lines 9-16</b>            The maps shall indicate the following information:            (A) Boundaries of the Logging Area.</p>	<p><b>PG&amp;E is working to develop something that will be useful based on the state's interests. PG&amp;E would appreciate the board's input on information that would be most pertinent.</b></p>





# 3. Exemptions

Existing Language Citation	Comments/Recommendations
<p><b>Page 30, line 22</b> The clearing of trees from Timberland by a private or public utility for construction of gas, water, sewer, oil, electric, and communications (transmitted by wire, television, radio, or microwave) rights-of-way, and for maintenance and repair of the utility and right-of-way.</p>	<p>by wire, television, radio, or microwave) rights-of-way, <b>and for maintenance and repair of the utility and right of way.</b></p>
<p><b>Page 31, line 1</b> Nothing in this section shall exclude the applicable provisions of PRC §§ 4292 and 4293, and 14 CCR §§ 1250 through 1258, inclusive, for fire hazard clearance from being an allowable supplement to the exempt widths.</p>	<p>Should reference codes: PRC § 4295.5, GO 95 Rule 35 or PUC § 8386.</p>
<p><b>Page 35, line 24</b> No sites of rare, threatened or endangered plants or animals shall be disturbed, threatened, or damaged and no Timber Operations shall occur within the Buffer Zone of a Sensitive Species...</p>	<p><b>PG&amp;E proposes that when an approved HCP or other program covers the area, this section is inapplicable. Vegetation management must be conducted for public safety, regardless of whether facilities are in sensitive areas.</b></p>



## 4. Registered Professional Foresters

Existing Language Citation	Comments/Recommendations
<p><b>Page 31, line 7</b> A notice of right-of-way exemption shall be prepared by an RPF on a form prepared by the Department and submitted to the Director prior to the commencement of Timber Operations.</p>	<p>There are not enough RPFs to fulfill this request. PG&amp;E recommends this section be expanded to include an RPF, certified arborist or their supervise designees.</p>
<p><b>Page 34, line 1</b> 2) The RPF or Supervised Designee shall flag the boundary of the Harvest Area and any applicable WLPZs and ELZs.</p>	<p>Not practical to flag vegetation management work area boundary on 15k of line especially in areas where off-road equipment will not be used. PG&amp;E would like to work with the BOF on more GIS-based solutions.</p>
<p><b>Page 36, line 6</b> If a Significant Archaeological or Historical Site is identified by the RPF preparing the notice of right-of-way exemption within the Project boundary, the site may be preserved in place by capping or covering with a layer of soil prior to submission.</p>	<p>Protection measures for significant archaeological sites shall be proposed by a qualified archaeologist and not be limited to cap and cover.</p>
<p><b>Page 38, line 24</b> Danger Trees shall be identified and assessed for failure risk by an RPF or a professionally certified arborist...</p>	<p>This requirement is impractical for utility VM work; PG&amp;E identifies and mitigates more than 1 million Danger Trees per year. PG&amp;E proposes that Danger Trees may be identified by any utility worker or contractor. PG&amp;E recommends this section be expanded to include approval by an RPF, a certified arborist or their supervise designees.</p>
<p><b>Page 39, line 3</b> ...the RPF or professionally certified arborist shall certify that the Danger Tree satisfies the requirements of the definition of Danger Tree pursuant to 14 CCR § 895.1.</p>	<p>PG&amp;E proposes the language be amended to say: “...shall certify that <i>through the review of documentation or field verification...</i>”</p>
<p><b>Page 39, line 15</b> This paragraph does not apply to... other maintenance that is necessary to remediate a violation of mandatory minimum vegetation clearance requirements, such as clearance requirements for electrical transmission or distribution lines pursuant to PRC §§ 4292 and 4293 and Public Utilities Commission General Order No. 95.</p>	<p>PG&amp;E proposes this section also incorporate by reference PUC 8386 and approved WMPs.</p>

# 5. Right-of-Way Widths for Single Overhead Facilities

(Page 41, line 11)

Utility	Size	Existing Width	Comments/Recommendations
<b>Electric (Overhead Distribution and Transmission Single Circuits)</b>	0-33 KV	20'	50'
	34-100 KV	45'	75'
	101-200 KV	75'	100'
	(pole)		
	101-200 KV	80'	125'
	(tower)		
<b>Telephone, Cable or Open Wire When Underbuilt</b>	All	30'	50'

# Appendix





# Conflicts with Required Vegetation Management Work

Some Forest Practice Rules and other regulations are in **direct conflict with PG&E’s ability to complete required vegetation management work**. Specific examples of these conflicts are outlined in the table below and on the following slide.

	Forest Practice Rule or Regulation	Description	Conflict with Vegetation Management Work	Example
1	916.1, 936.1, 956.1 In Lieu Practices	Pursuant to 1104.1(h), in-lieu practices for watercourse and lake protection zones, exceptions to the rules, and alternative practices are not allowed as specified under Article 6 of Subchapters 4, 5, and 6 of Chapter 4, Title 14 CCR.	This restriction limits any practices that are in conflict with 916.3, 936.3, 956.3, where RPF could provide justification for doing the work within protection zones listed under a THP. This can’t happen under UE.	While working under UEs, the permit does not allow certain operations to occur as listed in following examples.
2	916.3, 936.3, 956.3(c) General Limitations Near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas	The Timber Operator shall not construct or use tractor roads in Class I, II, III or IV Watercourses, in the Watercourse Lake Protection Zone (WLPZ), marshes, wet meadows, and other wet areas.	Utility Infrastructure parallels and crosses thousands of watercourses and needs to use available access points to safely conduct work.	PG&E identifies compliance related work in a WLPZ and, after careful evaluation, the only way to safely work the tree is with heavy equipment. Though the hillside access is too steep, there is an old skid trail in the WLPZ that could be used above that tree. This rule would prevent that access.
3	916.3, 936.3, 956.3(d) General Limitations Near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas	Vegetation, other than commercial species, bordering and covering meadows and wet areas shall be retained and protected during Timber Operations.	Utility Infrastructure parallels and crosses thousands of meadows and wet areas, many of which have trees that need to be worked to keep lines safe and within compliance.	PG&E identifies a large quantity of cottonwoods (not a commercial species) on the edge of a meadow that are out of compliance and need to be mitigated. This rule precludes removing those trees, and the “protect” clause would prevent pruning too.
4	916.3, 936.3, 956.3(f) General Limitations Near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas	Where less than 50% canopy exists in the WLPZs of Class I and II waters before Timber Operations, only sanitation salvage...shall be allowed.	Utility Infrastructure parallels and crosses thousands of Class I and II watercourses where less than 50% of the canopy exists.	In relatively developed areas that have less than 50% canopy in a Class II WLPZ due to roads and other past clearing, if there is one healthy (not salvage) tree that is out of compliance, PG&E would be prohibited from removing that tree.
5	916.4, 936.4, 956.4(d) Watercourse and Lake Protection	Heavy equipment shall not be used in timber falling, Yarding, or Site Preparation within the WLPZ.	Utility Infrastructure parallels thousands of watercourses for hundreds of miles systemwide. Vegetation Management operations are required to use a wide array of heavy equipment such a bucket trucks and cranes to safely complete work in these areas.	A crane or bucket truck is needed for a WLPZ tree removal. The only access point is off an existing road within WLPZ that parallels the creek. This rule prohibits that use. 936.4(f) gives some latitude at dry class III crossings and existing road crossings, but not for roads running parallel to creeks.



# Conflicts with Required Vegetation Management Work (cont.)

	Forest Practice Rule or Regulation	Description	Conflict with Vegetation Management Work	Example
6	916.5, 936.5, 956.5(e)(“G”)(“I”) Procedure for Determining Watercourse and Lake Protection Zone (WLPZ) Widths and Protective Measures	To protect water temperature, filter strip properties, upslope stability, and fish and wildlife values, at least 50% of the overstory and 50% of the understory canopy covering the ground and adjacent waters shall be left in a well distributed multi-storied stand composed of a diversity of species similar to that found before the start of operations. The residual overstory canopy shall be composed of at least 25% of the existing overstory conifers.	Utility Infrastructure parallels thousands of watercourses for hundreds of miles systemwide.	PG&E is working in a relatively developed area that already has low percentage of overstory canopy in WLPZ due to roads, forest stand dynamic, and other past work. All remaining trees in the area need to be mitigated for compliance. This rule would prohibit work.
7	914.7, 934.7, 954.7 Timber Operations, Winter Period	When saturated soil conditions exist during the winter period (Nov. 15 to April 1, except under Special County Rules) limitation of the uses of heavy equipment exist such as tractor yarding or use of tractors. Erosion control structures shall be installed on all constructed skid trails and tractor roads prior to the end of the day if the U.S. Weather Service forecast is a "chance" (30% or more) of rain before the next day, and prior to weekend or other shutdown periods.	PRC 4293 now requires 4' clearance year-round, including during the winter period.	PG&E is working fire-damaged trees adjacent to powerlines in the FPR's winter period. This rule limits the ability to operate during this time period if there is saturated soil or a "chance" of rain before the next day, even with a winter operations plan. Additionally, majority of vegetation management work occurs on properties owned by PG&E customers, not controlled by PG&E. Under this rule erosion control structures should be in place, but many times the landowner does not want them in place or drives through them defeating the purpose of the erosion control structure.
8	PRC 4621(a) Application for conversion; procedure, form, fees and content to be prescribed.	PRC 4527(a)(2) states “the cutting or removal of trees or other forest products during the conversion of Timberlands to land uses other than the growing of timber that are subject to the provisions of Section 4621”  4621(a) states “A person who owns Timberlands that are to be devoted to uses other than the growing of timber shall file an application for conversion with the board.”	Almost all vegetation management work is occurring on properties where PG&E is neither the land nor timber owner.	If PG&E’s vegetation management work under existing powerlines is considered or treated as a conversion, there is a conflict in which PG&E does not own the timberland.
9	Timber Operations on significant historical or archeological sites per CAL FIRE Utility Exemption Permits	No Timber Operations are allowed on significant historical or archeological sites per utility exemption permits.	Utility Infrastructure parallels and crosses many archaeological locations.	Vegetation management has compliance-related work identified on a line that parallels an historic mining ditch. This clause means the tree cannot be cut or the hazard cannot be abated.