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PUBLIC RESOURCES CODE - PRC

DIVISION 4. FORESTS, FORESTRY AND RANGE AND FORAGE LANDS [4001 - 4958] (*Division 4 repealed and added by Stats. 1965, Ch. 1144.*)

PART 2. PROTECTION OF FOREST, RANGE AND FORAGE LANDS [4101 - 4789.7] (*Part 2 added by Stats. 1965, Ch. 1144.*)

CHAPTER 3. Mountainous, Forest-, Brush- and Grass-Covered Lands [4291 - 4299] (*Chapter 3 added by Stats. 1965, Ch. 1144.*)

4291. (a) A person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, shrub-covered lands, grass-covered lands, or land that is covered with flammable material, shall at all times do all of the following:

(1) (A) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line, except as provided in subparagraph (B). The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained and spaced in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This subparagraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation or to interrupt the advance of embers toward a structure. The intensity of fuels management may vary within the 100-foot perimeter of the structure, with more intense fuel reductions being utilized between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. Consistent with fuels management objectives, steps should be taken to minimize erosion, soil disturbance, and the spread of flammable nonnative grasses and weeds. For purposes of this subparagraph, "fuel" means any combustible material, including petroleum-based products, cultivated landscape plants, grasses, and weeds, and wildland vegetation.

(B) A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation. Fuel modification beyond the property line may only be required by state law, local ordinance, rule, or regulation in order to maintain 100 feet of defensible space from a structure. Fuel modification on adjacent property shall only be conducted following written consent by the adjacent landowner. Any local ordinance related to fuel modification shall be in compliance with all applicable state laws, regulations, and policies. Any local ordinance may include provisions to allocate costs for any fuel modification beyond the property line.

(C) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under subparagraph (A) if a fire expert, designated by the director, provides findings that the fuel modification is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.

(2) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(3) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.

(4) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

(5) Before constructing a new building or structure or rebuilding a building or structure damaged by a fire in an area subject to this section, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies

with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

(c) (1) Except as provided in Section 18930 of the Health and Safety Code, the State Fire Marshal may adopt regulations exempting a structure with an exterior constructed entirely of nonflammable materials, or, conditioned upon the contents and composition of the structure, the director may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

(2) An exemption or variance under paragraph (1) shall not apply unless and until the occupant of the structure, or if there is not an occupant, the owner of the structure, files with the State Fire Marshal, in a form as the State Fire Marshal shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(d) The State Fire Marshal may authorize the removal of vegetation that is not consistent with the standards of this section. The State Fire Marshal may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.

(e) (1) The board, in consultation with the State Fire Marshal, shall develop, periodically update, and post on its internet website a guidance document on fuels management pursuant to this chapter. The guidance document shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species that are fire resistant or drought tolerant, or both, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion, such as woodpiles, propane tanks, decks, outdoor furniture, barbecue equipment, and outdoor fire pits.

(2) On or before January 1, 2023, the board, in consultation with the State Fire Marshal, shall update the guidance document to include suggestions for creating an ember-resistant zone within five feet of a structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers.

(f) The State Fire Marshal shall do both of the following:

(1) Recommend to the board the types of vegetation or fuel that are to be excluded from an ember-resistant zone based on the probability that vegetation and fuel will lead to ignition by ember of a structure as a part of the update to the guidance document pursuant to paragraph (2) of subdivision (e).

(2) Make reasonable efforts to provide notice to affected residents describing the requirements added by the amendments to paragraph (1) of subdivision (a) made in Assembly Bill 3074 of the 2019–20 Regular Session before the imposition of penalties for violating those requirements.

(g) (1) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall not take effect for new structures until the board updates the regulations, pursuant to paragraph (1) of subdivision (a), and the guidance document, pursuant to paragraph (2) of subdivision (e).

(2) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall take effect for existing structures one year after the effective date for the new structures.

(h) The department shall not change defensible space inspection practices and forms or enforcement to implement the requirement for an ember-resistant zone until the State Fire Marshal makes a written finding, which the State Fire Marshal shall post on the department's internet website, that the Legislature has appropriated sufficient resources to do so.

(i) For purposes of this section, a structure for the purpose of an ember-resistant zone shall include any attached deck. This section does not limit the authority of the board or the department to require the removal of fuel or vegetation on top of or underneath a deck pursuant to this section.

(j) As used in this section, "person" means a private individual, organization, partnership, limited liability company, or corporation.

(Amended by Stats. 2021, Ch. 382, Sec. 9.5. (SB 63) Effective January 1, 2022.)

4291.1. (a) Notwithstanding Section 4021, a violation of Section 4291 is an infraction punishable by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500). If a person is convicted of a second violation of Section 4291 within five years, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250), nor more than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, the department may perform or contract for the performance of work necessary to comply with Section 4291 and may bill the person convicted for the costs incurred, in which case the person convicted, upon payment of those costs, shall not be required to pay the fine. If a person convicted of a violation of Section 4291 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

(b) If a person convicted of a violation of Section 4291 produces in court verification prior to imposition of a fine by the court, that the condition resulting in the citation no longer exists, the court may reduce the fine imposed for the violation of Section 4291 to fifty dollars (\$50).

(Amended by Stats. 1990, Ch. 773, Sec. 1.)

4291.3. (a) Subject to any other applicable law, a state or local fire official, at their discretion, may authorize an owner of property, or the owner's agent, to construct a firebreak, or implement appropriate vegetation management techniques, to ensure that defensible space is adequate for the protection of a hospital, adult residential care facility, school, aboveground storage tank, hazardous materials facility, or similar facility on the property. The firebreak may be for a radius of up to 300 feet from the facility, or to the property line, whichever distance is shorter.

(b) The director may authorize an owner of a property not listed in subdivision (a) to construct a firebreak, or implement appropriate vegetation management techniques, within a radius of up to 300 feet from a structure, or to the property line, whichever distance is shorter, if it is determined by the director as necessary to protect life, property, and natural resources from unreasonable risks associated with wildland fires.

(Amended by Stats. 2021, Ch. 133, Sec. 68. (SB 272) Effective July 23, 2021.)

4291.5. (a) For purposes of this section, the following definitions apply:

(1) "Home hardening" means the replacement or repair of structural features that are affixed to the property with features that are in compliance with Chapter 7A (commencing with Section 701A.1) of Title 24 of the California Code of Regulations.

(2) "Qualified entities" means the following entities that have completed the program developed and received a certification, pursuant to Section 4291.6:

(A) Counties, state conservancies, special districts, and other political subdivisions of the state.

(B) Members of the California Conservation Corps, the Board of Commissioners under California Volunteers described in Section 8411 of the Government Code, local conservation corps, resource conservation districts, fire safe councils, and Firewise USA organizations.

(C) University of California fire advisors.

(D) Registered Professional Foresters.

(E) Other entities or individuals deemed appropriate by the director.

(3) "Wildfire safety improvements" mean wildfire resilience and fire safety improvements, including measures for home hardening, the creation of defensible space, and other appropriate fuel reduction activities, to residential, commercial, industrial, agricultural, or other real property identified by the State Fire Marshal, in consultation with the director.

(b) The director shall establish a statewide program to allow qualified entities to support and augment the department in its defensible space and home hardening assessment and education efforts. Qualified entities participating in the program shall be authorized by the director to conduct defensible space assessments to assess compliance with Section 4291 within the state responsibility area, educate property owners about wildfire safety improvements that may be undertaken to harden a structure and make it more resistant to fire, and assess whether wildfire safety improvements have been completed in or on a structure.

(c) (1) The director shall establish a common reporting platform that allows defensible space and home hardening assessment data, collected by the qualified entities, to be reported to the department and shall establish any necessary quality control measure to ensure that the assessment data is accurate and reliable.

(2) The department shall compile the data submitted pursuant to paragraph (1).

(d) The director may use the defensible space and home hardening assessment data to do any of the following:

(1) Direct inspection and enforcement resources away from landowners who meet or exceed the department's standards and regulations for maintaining defensible space.

(2) Direct inspection and enforcement resources toward landowners who do not meet the department's standards and regulations for maintaining defensible space.

(3) Direct educational resources toward landowners who own or maintain structures that can be hardened to make them more resistant to fire.

(4) Assist in estimating defensible space compliance in the state responsibility area.

(e) The department may expand or amend existing programs for the implementation of this section.

(f) This section does not grant any right of entry onto private land or regulatory or enforcement authority to participating qualified entities.

(g) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Added by Stats. 2021, Ch. 382, Sec. 10. (SB 63) Effective January 1, 2022. Repealed as of January 1, 2026, by its own provisions.)

4291.6. (a) (1) The Legislature finds and declares that the use of trained volunteers to assist homeowners and fire agencies in achieving compliance with defensible space requirements will provide multiple benefits, including all of the following:

(A) Creating a significant public benefit by reducing the risk of the spread of wildfire.

(B) Creating significant savings for fire agencies by increasing general compliance with defensible space requirements, and thereby reducing the volume of inspections required by public agencies.

(C) Allowing fire agencies to focus their defensible space regulatory enforcement on landowners who are not in compliance after suggestions for voluntary compliance from trained volunteers.

(2) It is further the intent of the Legislature that the department do both of the following:

(A) Establish a pilot program using trained volunteers with any costs for the pilot project coming from the existing funds made available to the department from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code.

(B) Consider using the services of the California Fire Science Consortium and the Regional Forest and Fire Capacity program at the Natural Resources Agency to implement this section.

(b) The department shall develop and implement a training program to train individuals to support and augment the department in its defensible space and home hardening assessment and public education efforts. The training program shall do both of the following:

(1) Provide for consistent training for third-party assessors who shall function to provide nonregulatory assistance to homeowners to reduce fire risk and to achieve compliance with defensible space requirements.

(2) Ensure that all defensible space and home hardening assessment and education programs undertaken by the department and by third parties are conducted to the same standard and use coordinated messaging, including messages at www.readyforwildfire.org or a successor internet website, as updated by the department.

(c) Upon an individual's successful completion of the training program, the department shall issue a certification of completion to the individual.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Added by Stats. 2021, Ch. 382, Sec. 11. (SB 63) Effective January 1, 2022. Repealed as of January 1, 2026, by its own provisions.)

4292. Except as otherwise provided in Section 4296, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for fire protection of such areas, maintain around and adjacent to any pole or tower which supports a switch, fuse, transformer, lightning arrester, line junction, or dead end or corner

pole, a firebreak which consists of a clearing of not less than 10 feet in each direction from the outer circumference of such pole or tower. This section does not, however, apply to any line which is used exclusively as telephone, telegraph, telephone or telegraph messenger call, fire or alarm line, or other line which is classed as a communication circuit by the Public Utilities Commission. The director or the agency which has primary fire protection responsibility for the protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

(Amended by Stats. 1976, Ch. 1300.)

4293. Except as otherwise provided in Sections 4294 to 4296, inclusive, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or in forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for the fire protection of such areas, maintain a clearance of the respective distances which are specified in this section in all directions between all vegetation and all conductors which are carrying electric current:

(a) For any line which is operating at 2,400 or more volts, but less than 72,000 volts, four feet.

(b) For any line which is operating at 72,000 or more volts, but less than 110,000 volts, six feet.

(c) For any line which is operating at 110,000 or more volts, 10 feet.

In every case, such distance shall be sufficiently great to furnish the required clearance at any position of the wire, or conductor when the adjacent air temperature is 120 degrees Fahrenheit, or less. Dead trees, old decadent or rotten trees, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line which may contact the line from the side or may fall on the line shall be felled, cut, or trimmed so as to remove such hazard. The director or the agency which has primary responsibility for the fire protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

(Amended by Stats. 1976, Ch. 1300.)

4294. A clearing to obtain line clearance is not required if self-supporting aerial cable is used. Forked trees, leaning trees, and any other growth which may fall across the line and break it shall, however, be removed.

(Added by Stats. 1965, Ch. 1144.)

4295. A person is not required by Section 4292 or 4293 to maintain any clearing on any land if such person does not have the legal right to maintain such clearing, nor do such sections require any person to enter upon or to damage property which is owned by any other person without the consent of the owner of the property.

(Added by Stats. 1965, Ch. 1144.)

4295.5. (a) Notwithstanding any other law, including Section 4295, a person who owns, controls, operates, or maintains an electrical transmission or distribution line may traverse land as necessary, regardless of land ownership or express permission to traverse land from the landowner, after providing notice and an opportunity to be heard to the landowner, to prune trees to maintain clearances pursuant to Section 4293, and to abate, by pruning or removal, any hazardous, dead, rotten, diseased, or structurally defective live trees. The clearances obtained when the pruning is performed shall be at the full discretion of the person that owns, controls, operates, or maintains any electrical transmission or distribution line, but shall be no less than what is required in Section 4293. This section shall apply to both high fire threat districts, as determined by the California Public Utilities Commission pursuant to its rulemaking authority, and to state responsibility areas.

(b) Subdivision (a) does not exempt a person who owns, controls, operates, or maintains an electrical transmission or distribution line from liability for damages for the removal of vegetation that is not covered by an easement granted to the person for the electrical transmission or distribution line.

(Amended by Stats. 2021, Ch. 133, Sec. 69. (SB 272) Effective July 23, 2021.)

4296. Sections 4292 and 4293 do not apply if the transmission or distribution line voltage is 750 volts or less.

(Added by Stats. 1965, Ch. 1144.)

4296.5. (a) Any person or corporation operating a railroad on forest, brush, or grass-covered land shall, if ordered by the director or the agency having primary responsibility for fire protection of the area, destroy, remove, or modify so as not to be flammable any vegetation or other flammable material defined by regulation of the director to be a fire hazard on the railroad right-of-way. The director shall adopt regulations establishing fire prevention

hazard reduction standards for broad geographic areas by fuel type, slope, and potential for ignition from hot or flaming exhaust, carbon particles, hot metal, burning signal devices, burning tobacco, and other similar potential sources of ignition.

(b) The order to destroy, remove, or modify vegetation or other flammable material shall specify the location of the hazard to be destroyed, removed, or modified within the right-of-way, the width of the hazard which shall not exceed the width of the right-of-way, and the time within which compliance with the order is required.

(c) The director or the agency having primary responsibility for fire protection of the area shall allow a reasonable period of time for compliance with an order to destroy, remove, or modify vegetation or other flammable material.

(Added by Stats. 1978, Ch. 698.)

4297. Upon the showing of the director that the unrestricted use of any grass-covered land, grain-covered land, brush-covered land, or forest-covered land is, in the judgment of the director, a menace to life or property due to conditions tending to cause or allow the rapid spread of fires that may occur on the lands or because of the inaccessible character of the lands, the Governor through the director, may, by a proclamation, which declares that condition and designates the area to which, and the period during which the proclamation shall apply, require that the area be closed to hunting and fishing and to entry by a person except a person that is within one of the following classes:

(a) Owners and lessees of land in the area.

(b) Bona fide residents in the area.

(c) Persons engaged in some bona fide business, trade, occupation, or calling in the area and persons employed by them in connection with that business, trade, occupation, or calling.

(d) Authorized agents or employees of a public utility entering the area for the purpose of operating or maintaining public utility works or equipment within the area.

(e) Members of an organized firefighting force.

(f) A federal, state or local officer in the performance of their duties.

(g) Persons traveling on public roads or highways through the area.

(Amended by Stats. 2021, Ch. 133, Sec. 70. (SB 272) Effective July 23, 2021.)

4298. The proclamation by the Governor shall be released to the wire news services in the state, and shall be published at least once in a newspaper of general circulation in each county which contains any lands covered by the proclamation. Notice of closure shall also be posted on trails or roads entering the area covered by the proclamation. The closure shall be effective upon issuance of the proclamation by the Governor. Each notice shall clearly set forth the area to be subject to closure and the effective date of such closure. The closure shall remain in full force and effect until the Governor shall by order terminate it. The notice of such termination shall follow the same procedure by which such closure was effected. The order of termination shall be effected upon issuance.

(Added by Stats. 1965, Ch. 1144.)

4299. A person who violates Section 4297 or 4298 is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not less than 10 days nor more than 90 days or both the fine and imprisonment. All state and county law enforcement officers shall enforce orders of closure.

(Amended by Stats. 2004, Ch. 90, Sec. 1. Effective January 1, 2005.)