



STATE OF CALIFORNIA

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No. 2010/032

June 25, 2010

TO COUNTY ASSESSORS:

NOTICE OF PROPOSED REGULATORY ACTION,
PROPERTY TAX RULES 471 AND 1020

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board) proposes to repeal California Code of Regulations, title 18, section (Property Tax Rule) 471, *Timberland*, pursuant to the authority vested in it by Government Code section 15606, subdivision (c). The Board also proposes to amend Rule 1020, *Timber Value Areas*, pursuant to the authority vested in it by Revenue and Taxation Code section 38701.

PUBLIC HEARING

A public hearing on the proposed regulatory actions will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on August 24, 2010. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the proposed repeal of Rule 471 and the proposed amendment of Rule 1020.

AUTHORITIES

Rule 471: Government Code section 15606. Rule 1020: Revenue and Taxation Code section 38701.

REFERENCES

Rule 471: California Constitution, article XIII A, sections 1 and 2. Rule 1020: Revenue and Taxation Code sections 38109 and 38204

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Rule 471

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution to limit taxation, including the taxation of real property. The Board originally adopted Rule 471 as an emergency regulation in July 1978 because the adoption of Proposition 13 raised concerns about how timberland zoned under the

provisions of Government Code section 51110 or 51113 should be assessed for property tax purposes. Rule 471 was subsequently amended in October 1978 and became a permanent regulation in 1979, and Rule 471 has not been amended since.

During the May 26, 2010 Board meeting, the Board determined that Rule 471 is not necessary. This is because there is no longer any controversy or confusion regarding the assessment of timberland zoned under the provisions of Government Code section 51110 or 51113; and Rule 471 is duplicative of statutory provisions, including Revenue and Taxation Code section 52, subdivision (b), and article 1.7 of chapter 3 of part 2 of division 1 (commencing with section 431) of the Revenue and Taxation Code. Therefore, the Board proposes to repeal Rule 471 for the specific purpose of deleting the unnecessary and duplicative language from the California Code of Regulations.

Rule 1020

The Board originally adopted Rule 1020 in 1976 in compliance with Revenue and Taxation Code section 38204, which requires the Board to "designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as timber value areas for the preparation and application of immediate harvest values" after consultation with the Timber Advisory Committee (TAC). Rule 1020 designates nine timber value areas (TVAs) comprised of counties with similar growing, harvesting, and marketing conditions, and Rule 1020 has not been amended since 1977.

In the fall of 2008, the TAC requested that Board staff re-evaluate the existing TVAs because the TAC was concerned that California's timber marketing conditions had changed since 1977 and that these changes may warrant amendments to the TVAs. The TAC's concerns were due to the fact that the number of California sawmills decreased from approximately 200 sawmills in 1977 (when the TVAs were originally established) to approximately 30 sawmills in 2008.

As a result, Board staff reviewed the state's timber growing, harvesting, and marketing conditions and determined that the first two conditions were stable. However, staff found that a number of counties' marketing conditions had changed dramatically in the past 33 years because:

- The reduction in the number of sawmills requires logs to be hauled further for processing than they were in 1977, which increases the cost of producing timber; and
- The sources of the state's timber shifted from predominantly U.S. Forest Service land to privately owned timberland between 1977 and the present.

Therefore, Board staff recommended that Rule 1020 be amended so that:

1. TVA 1 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Eureka, California, and Oregon.
2. TVA 2 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Ukiah and Cloverdale, California.

3. TVA 3 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in the Davenport area of Santa Cruz County, California.
4. TVA 4 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Redding and Anderson, California.
5. TVA 5 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Redding, California, and Oregon.
6. TVA 6 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Redding, California, and Oregon.¹
7. TVA 7 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Lincoln and Quincy, California.
8. TVA 8 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Camino, California, and Sonora County, California.
9. TVA 9 includes counties with similar growing and harvesting conditions whose timber markets are centered around sawmills in Sonora and Kern Counties.

Furthermore, Board staff recommended that the following counties (or portions) be deleted from one TVA and moved to another TVA that best fits its current timber marketing conditions.

Trinity County

Board staff recommended deleting "Trinity County south and west of that part of the exterior boundary of the Shasta-Trinity National Forest between Humboldt and Tehama Counties" from TVA 1 and amending TVA 4 so that it includes all of Trinity County because all of Trinity County's timber markets are now similarly centered around sawmills in Redding and Anderson, California.

Alameda County, Contra Costa County, Monterey County, San Francisco City and County, San Mateo County, Santa Clara County, and Santa Cruz County

Board staff recommended deleting Alameda County, Contra Costa County, Monterey County, San Francisco City and County, San Mateo County, Santa Clara County, and Santa Cruz County from TVA 2 and amending TVA 3 to include all seven counties, including the City and County of San Francisco, because whatever marketing there is of any timber remaining in these seven counties will be centered around sawmills in the Davenport area of Santa Cruz County, California.

¹ One of the characteristics requiring two categories for counties whose timber markets are centered around sawmills in Redding, California, and Oregon is that TVA 5 is a fir area and TVA 6 is a pine area.

Napa County

Board staff recommended deleting Napa County from TVA 5 and amending TVA 2 to include Napa County because Napa County's timber markets are now centered around sawmills in Ukiah and Cloverdale, California.

Siskiyou County West of Interstate Highway No. 5

Board staff recommended deleting "Siskiyou County west of Interstate Highway No. 5" from TVA 3 and amending TVA 4 to include Siskiyou County west of Interstate Highway No. 5 because this section of Siskiyou County's timber markets are now centered around sawmills in Redding and Anderson, California.

Colusa County, Glenn County, Lake County, Solano County, Tehama County West of Interstate Highway No. 5, and Yolo County

Board staff recommended deleting Colusa County, Glenn County, Lake County, Solano County, "Tehama County west of Interstate Highway No. 5," and Yolo County from TVA 5 and amending TVA 4 to include all five counties and the portion of Tehama County west of Interstate Highway No. 5 because their timber markets are centered around sawmills in Redding and Anderson, California.

Shasta County between Interstate Highway No. 5 and State Highway No. 89 and Shasta County East of State Highway No. 89

Board staff recommended deleting "Shasta County between Interstate Highway No. 5 and State Highway No. 89" from TVA 7 and deleting "Shasta County east of State Highway No. 89" from TVA 6 and amending TVA 5 to include all of "Shasta County east of Interstate Highway No. 5" because that portion of Shasta county is a fir area and its timber markets are centered around sawmills in Redding, California, and Oregon.

Siskiyou County East of Interstate Highway No. 5

Board staff recommended deleting "Siskiyou County east of Interstate Highway No. 5" from TVA 6 and amending TVA 5 to include that portion of Siskiyou County because it is a fir area and its timber market is centered around sawmills in Redding, California, and Oregon.

Sacramento County

Board staff recommended deleting Sacramento County from TVA 5 and amending TVA 8 to include Sacramento County because its timber markets are centered around sawmills in Camino, California, and Sonora County, California.

Alpine County, San Joaquin County, and Stanislaus County

Board staff recommended deleting Alpine County, San Joaquin County, and Stanislaus County from TVA 9 and amending TVA 8 to include all three counties because their timber markets are centered around sawmills in Camino, California, and Sonora County, California.

Board staff's recommendations were provided to the counties and the interested parties in Letter to Assessors (LTA) 2009/31 (August 16, 2009)² and LTA 2010/08 (January 29, 2010)³ and both the counties and the interested parties were invited to comment. Board staff's recommendations were also presented to and supported by the TAC during its April 27, 2010, meeting. Thereafter, Board staff incorporated its recommendations into Formal Issue Paper 10-005⁴ for the Board's consideration and discussion during its meeting on May 26, 2010. During that meeting, the Board determined that all of staff's proposed amendments to Rule 1020 are necessary to ensure that each TVA listed in Rule 1020 includes the appropriate counties with similar growing, harvesting, and marketing conditions. Therefore, the Board proposes to amend Rule 1020 for the specific purpose of re-designating the counties assigned to each of the nine TVAs to reflect the changes in the counties' marketing conditions since 1977.

Authority and Reference Notes

The authority note for Rule 1020 cites Government Code section 15606, which generally authorizes the Board to adopt regulations concerning property taxes, rather than Revenue and Taxation Code section 38701 which specifically authorizes the Board to adopt Timber Yield Tax regulations, such as Rule 1020. Additionally, the reference note for Rule 1020 cites all of chapter 1 (commencing with section 38101), and chapter 3 (commencing with section 38202), of part 18.5, of division 2 of the Revenue and Taxation Code, as the statutes being implemented, interpreted, and made specific by Rule 1020. However, Rule 1020 specifically implements, interprets, and makes specific the provisions of Revenue and Taxation Code section 38109, which defines the term "Immediate Harvest Value," and section 38204, which requires the Board to designate TVAs for use in the preparation and application of immediate harvest values. Therefore, Board staff also recommended that the Board amend Rule 1020 so that the authority correctly cites Revenue and Taxation Code section 38701, and the reference more specifically cites Revenue and Taxation Code section 38109 and 38204.

During the May 26, 2010 meeting, the Board agreed that Revenue and Taxation Code section 38701 contains the statutory authority for Rule 1020, and that Rule 1020 specifically implements, interprets, and makes specific Revenue and Taxation Code section 38109 and 38204. Therefore, the Board proposes to amend Rule 1020's authority and reference as recommended by staff for the specific purpose of ensuring that the rule's authority and reference cite the correct provisions of the Revenue and Taxation Code.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the proposed repeal of Rule 471 and proposed amendments to Rule 1020 do not impose a mandate on local agencies or school districts that are required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

² LTA 2009/31 is available at www.boe.ca.gov/proptaxes/pdf/lta09031.pdf.

³ LTA 2010/08 is available at www.boe.ca.gov/proptaxes/pdf/lta10008.pdf.

⁴ Formal Issue Paper 10-005 is available at www.boe.ca.gov/proptaxes/pdf/10-005.pdf.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the proposed repeal of Rule 471 and proposed amendments to Rule 1020 will result in no direct or indirect cost or savings to a state agency, any costs to local agencies or school districts that are required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

Rule 471 is duplicative of statutes in the Revenue and Taxation Code and its proposed repeal will not have any effect on the assessment of timberland for property tax purposes. The proposed amendments to Rule 1020 merely re-designate the counties assigned to the TVAs to reflect changes to California's timber markets that occurred since the regulation was last amended in 1977, as required by Revenue and Taxation Code section 38204. Furthermore, the proposed amendments to Rule 1020 will not directly effect the Timber Yield Taxes imposed upon any specific timber owners because their taxes are dependent upon the "yield tax rate" the Board is required to adopt during December of each year pursuant to Revenue and Taxation Code sections 38202 and 38203 and the "immediate harvest values" the Board is required to adopt by June 30 and December 31 of each calendar year pursuant to Revenue and Taxation Code section 38204. Therefore, pursuant to Government Code section 11346.5, subdivision (a)(8), the Board has made an initial determination that the adoption of the proposed repeal of Rule 471 and the adoption of the proposed amendments to Rule 1020 will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulatory actions may affect small business.

COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed repeal of Rule 471 and proposed amendments to Rule 1020 will not create any new compliance burdens for private persons or businesses.

RESULTS OF THE ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The adoption of the proposed repeal of Rule 471 and proposed amendments to Rule 1020 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of the proposed repeal of Rule 471 and proposed amendments to Rule 1020 will not have a significant effect on housing costs.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT

Questions regarding the substance of the proposed regulatory actions should be directed to Mr. Bradley Heller, Tax Counsel III (Specialist), by telephone at 916-324-2657, by email at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, 450 N Street, MIC:82, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at 916-445-2130, by fax at 916-324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, 450 N Street, MIC:81, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends when the public hearing begins at 9:30 a.m., or as soon thereafter as the matter may be heard, on August 24, 2010. If the Board receives written comments prior to the close of the written comment period, the statements, arguments, and/or contentions contained in those comments will be presented to and considered by the Board before the Board decides whether to adopt the proposed repeal of Rule 471 and the proposed amendments to Rule 1020. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an Initial Statement of Reasons and underscored and strikethrough versions of the text of Rules 471 and 1020, which illustrate the proposed repeal of Rule 471 and the proposed amendments to Rule 1020. These documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the Initial Statement of Reasons are also available on the Board's website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed repeal of Rule 471 and the proposed amendments to Rule 1020 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the proposed repeal of Rule 471 or the proposed amendments to Rule 1020 orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting amendments that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed repeal of Rule 471 and the proposed amendments to Rule 1020, the Board will prepare a Final Statement of Reasons. The Final Statement of Reasons will be made available on the Board's Website at www.boe.ca.gov. It will also be available for public inspection at 450 N Street, Sacramento, California.

FEDERAL REGULATIONS

Rules 471 and 1020 have no comparable federal regulations.

Sincerely,

/s/ Diane G. Olson

Diane G. Olson, Chief
Board Proceedings Division

DGO:sk

**Proposed Amendments to
California Code of Regulations, Title 18,
Sections 471 and 1020**

~~471. Timberland.~~

~~Consistent with the intent of the provisions of Section 3(j) of Article XIII of the California Constitution and the legislative interpretation thereof, the value for land which has been zoned as timberland pursuant to Section 51110 or 51113 of the Government Code shall be ascertained for the 1979 lien date from the schedule contained in Section 434.5 of the Revenue and Taxation Code and thereafter from the most recent board-adopted timberland site class value schedule.~~

~~Note: Authority cited: Sec. 15606(c) Gov. Code Reference: Art. XIII A, Secs. 1 and 2, California Constitution.~~

1020. Timber Value Areas.

The following nine designated areas contain timber having similar growing, harvesting, and marketing conditions and shall be used as timber value areas in the preparation and application of immediate harvest values:

Area 1

~~Del Norte County~~

~~Humboldt County~~

~~Trinity County south and west of that part of the exterior boundary of the Shasta-Trinity National Forest between Humboldt and Tehama Counties~~

Area 2

~~Alameda County~~

~~Contra Costa County~~

~~Marin County~~

~~Mendocino County~~

~~Napa County~~

~~Monterey County~~

~~San Francisco County~~

~~San Mateo County~~

~~Santa Clara County~~

~~Santa Cruz County~~

~~Sonoma County~~

Area 3

~~Alameda County~~

~~Contra Costa County~~

~~Monterey County~~

~~San Francisco City and County~~

~~San Mateo County~~

~~Santa Clara County~~

~~Santa Cruz County~~

~~Siskiyou County west of Interstate Highway No. 5~~

Area 4

Colusa CountyGlenn CountyLake County

Shasta County west of Interstate Highway No. 5

Solano CountySiskiyou County west of Interstate Highway No. 5Tehama County west of Interstate Highway No. 5~~Trinity County except that portion which is south and west of that part of the exterior boundary of the~~~~Shasta-Trinity National Forest between Humboldt and Tehama Counties~~Yolo County

Area 5

Shasta County east of Interstate Highway No. 5Siskiyou County east of Interstate Highway No. 5~~Colusa County~~~~Glenn County~~~~Lake County~~~~Napa County~~~~Sacramento County~~~~Solano County~~~~Tehama County west of Interstate Highway No. 5~~~~Yolo County~~

Area 6

Lassen County

Modoc County

~~Shasta County east of State Highway No. 89~~~~Siskiyou County east of Interstate Highway No. 5~~

Area 7

Butte County

Nevada County

Placer County

Plumas County

~~Shasta County between Interstate Highway No. 5 and State Highway No. 89~~

Sierra County

Sutter County

Tehama County east of Interstate Highway No. 5

Yuba County

Area 8

Alpine County

Amador County

Calaveras County

El Dorado County

Sacramento CountySan Joaquin CountyStanislaus County

Tuolumne County

Area 9

~~Alpine County~~

Fresno County
Imperial County
Inyo County
Kern County
Kings County
Los Angeles County
Madera County
Mariposa County
Merced County
Mono County
Orange County
Riverside County
San Benito County
San Bernardino County
San Diego County
~~San Joaquin County~~
San Luis Obispo County
Santa Barbara County
~~Stanislaus County~~
Tulare County
Ventura County

Note: Authority cited for Article 4: Section ~~3870145606~~, Revenue and Taxation Code Government Code.
Reference for Article 4: ~~Chapters 1 and 3, Part 18.5, Division 2~~Sections 38109 and 38204, Revenue and Taxation Code.