

NOTICE PUBLICATION REGULATORY SUBMISSION

See instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 01-2013)

NONSUBSTANTIVE

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2014-1024-02N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED
IN THE OFFICE OF

2014 DEC 10 PM 2:17

Desra Bowen
DESRA BOWEN
SECRETARY OF STATE

2014 OCT 24 PM 1:32

OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Board of Forestry and Fire Protection

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Definitions, Exemption and Effective Period § 100 Changes, 2014	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND See additional sheet.
TITLE(S) 14	REPEAL 1029(i)(15) <i>KAA per agency request</i>

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Thembi Borrás	TELEPHONE NUMBER 916-653-9633	FAX NUMBER (Optional) 916-653-0989	E-MAIL ADDRESS (Optional) thembi.borras@bof.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Thembi Borrás</i>	DATE October 24, 2014
TYPED NAME AND TITLE OF SIGNATORY Thembi Borrás, Regulations Coordinator for the Board of Forestry and Fire Protection	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 10 2014

Office of Administrative Law

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

"Definitions, Exemption and Effective Period § 100 Changes, 2014"

ADDITIONAL SHEET

Section(s) affected (List all section(s) numbers individually. Attach additional sheet if needed.):

§ 895.1 Definitions

§ 1038(i) Exemption

§ 1038(i)(7) Exemption

§ 1038(i)(10)(B)(i) Exemption

§ 1039.1 Effective Period of the Plan

§ 1041 Limitations

§ 1092.01(e) PTEIR and PTHP

§ 1092.28(a) Effective Period of the PTHP and PTEIR

**State of California
Office of Administrative Law**

In re:

Board of Forestry and Fire Protection

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections:

**Amend sections: 895.1, 1038, 1039.1, 1041,
1092.01, 1092.28**

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL File No. 2014-1024-02 N

This action by the Board of Forestry and Fire Protection (Board) makes changes without regulatory effect pursuant to Section 100, of the California Code of Regulations. These changes relate to definitions, exemptions and effective periods.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 12/10/2014



Kevin D. Hull
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: George Gentry
Copy: Thembu Borrás

1 **Board of Forestry and Fire Protection**

2 **“Definitions, Exemption and Effective Period § 100 Changes, 2014”**

3 **Title 14 of the California Code of Regulations, (14 CCR),**

4 **Division 1.5, Chapter 4, Subchapter 1, Article 1 and Subchapter 7, Article 2 and Article 6.8**

5
6 **Amend:**

7 **§ 895.1 Definitions**

8 **§ 1038(i) Exemption**

9
10 **§ 1038(i)(7) Exemption**

11 **§ 1038(i)(10)(B)(i) Exemption**

12
13 **§ 1039.1 Effective Period of the Plan**

14 **§ 1041 Limitations**

15 **§ 1092.01(e) PTEIR and PTHP**

16 **§ 1092.28(a) Effective Period of the PTHP and PTEIR**

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18
19
20 **§ 895.1**

21 ***** "Approved and legally permitted structure" means, for the purposes of 14 CCR § 1038 ~~(d)~~
22 (c), only structures that are designed for human occupancy and garages, barns, stables, and
23 structures used to enclose fuel tanks. *****

1 ***** “Basal area per acre”, pursuant to PRC § 4528(a), means the sum of the cross-sectional
2 areas at breast height of the tree stems of commercial species per acre.*****

3
4 ***** “Board”, pursuant to PRC § 4521.3, means the State Board of Forestry and Fire Protection.

5 *****

6
7 ***** *For the Northern Forest District:*

8 “Commercial Species” means those species found in group A and those in group B that are
9 found on lands where the species in group A are now growing naturally or have grown naturally
10 in the recorded past. *****

11 *****Group B:

12 - Knobcone pine (*Pinus attenuata*)

13 - ~~Digger~~ gray pine (*Pinus sabiniana*)*****

14
15 ***** “Committee”

4522 *****

16
17 ***** “Countable tree”, pursuant to PRC § 4528(b), means a tree that can be used in calculating
18 the degree of stocking under the following criteria:

19 (1) The tree must be in place at least two growing seasons.

20 (2) The tree must be live and healthy.

21 (3) The tree must have at least one-third of its length in live crown, except in pure stands
22 of Douglas fir the tree must have at least one-fourth of its length in live crown.

23 (4) The tree must be a commercial species from a local seed source or a seed source
24 which the registered professional forester determines will produce commercial trees
25 physiologically suited for the area involved.*****

1 *****“District” ~~see PRC § 4523,~~ pursuant to PRC § 4523, means a forest district. *****

2
3 ***** “Executive Officer” means the Executive Officer of the State Board of Forestry and Fire
4 Protection authorized by PRC § 739. *****

5
6 *****“Fuel break”, pursuant to PRC § 4528(e), means a strip of modified fuel to provide a line
7 from which to work in the control of fire. *****

8
9 *****“License”, pursuant to PRC § 4524, means a license to engage in timber operations issued
10 pursuant to Article 6 (commencing with § 4571 of Chapter 8 of PRC). *****

11
12 *****“Person”, pursuant to PRC § 4525, includes any private individual, organization,
13 partnership, corporation, limited liability company, city, county, district, or the state or any
14 department or agency thereof. *****

15
16 ***** “Reasonably Foreseeable Probable future projects” means projects with activities that may
17 add to or lessen impact(s) of the proposed THP including but not limited to: *****

18 ***** (4) if the project is one which is under-taken by a public agency, the agency has made a
19 public announcement of the intent to carry out the project. *****

20
21 *****“Resource conservation standards”, pursuant to PRC § 4525.3, means the minimum
22 acceptable condition resulting from timber operations. *****

23
24 *****“Rules”, pursuant to PRC § 4525.5, means the district forest practice rules adopted by the
25 board. *****

1 *****“Site classification”, pursuant to PRC § 4528(d), means the classification of productive
2 potential of timberland into one of five classes by board regulation, consistent with normally
3 accepted forestry practices. Site I shall denote sites of highest productivity, site II and site III
4 shall denote sites of intermediate productivity potential, and site IV and site V shall denote sites
5 of lowest productivity potential.*****

6
7 ***** “Slash”, pursuant to PRC § 4525.7, means branches or limbs less than four inches in
8 diameter, and bark and split products debris left on the ground as a result of timber
9 operations.*****

10
11 ***** “Substantial deviation” means changes that are not “minor deviations” as defined in §
12 895.1 and are presumed to be substantial deviations because they could significantly affect the
13 conduct of timber operations and potentially could have a significant adverse ~~affect~~ effect on
14 timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range
15 and forage, recreation and aesthetic enjoyment. Such actions include, but are not limited to:

16 *****

17
18 *****“Timberland”, pursuant to PRC § 4526, means land, other than land owned by the federal
19 government and land designated by the board as experimental forest land, which is available
20 for, and capable of, growing a crop of trees of a commercial species used to produce lumber
21 and other forest products, including Christmas trees. Commercial species, on a district basis, is
22 defined in 14 CCR § 895.1.*****

1 *****“Timber operator”, pursuant to PRC § 4526.5, means a person who is engaged in timber
2 operations or who contracts with others to conduct the operations on his or her behalf, except a
3 person who is engaged in timber operations as an employee with wages as his or her sole
4 compensation.*****

5
6 *****Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4561.6, 4562, 4562.5,
7 4562.7 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4525.5, 4525.7,
8 4526, 4551, 4551.5, 4561, 4561.6, 4562, 4562.5, 4562.7, 4583.2, 4591.1, 21001(f), 21080.5,
9 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed following
10 Section 15387 of Title 14 Cal. Code of Regulations), *Laupheimer v. State* (1988) 200
11 Cal.App.3d 440; 246 Cal.Rptr. 82 and *Joy Road Area Forest and Watershed Association v.*
12 *California Department of Forestry & Fire Protection*, Sonoma County Superior Court No. SCV
13 229850.*****

14
15 **§ 1038(i)**

16 ***** (i) The harvesting of trees in compliance with PRC § 4584(k)(j), Forest Fire
17 Prevention Exemption, limited to those trees that eliminate the vertical continuity of vegetative
18 fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire
19 spread, duration and intensity, fuel ignitability, or ignition of tree crowns, when the following
20 conditions are met:*****

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§ 1038(i)(7)

***** (7) The RPF shall, upon submission of the Notice of Exemption, provide a Confidential Archaeological Letter, as defined in 14 CCR § 895.1, which contains all the information required for plans and Emergency Notices in ~~14 CCR § 929.1(c)(2), (7), (8), (9), (10) and (11), [949.1(c)(2), (7), (8), (9), (10) and (11), 969.1(c)(2), (7), (8), (9), (10) and (11)]~~ including ~~site records as required pursuant to 14 CCR §§ 929.1 (g) [949.1(g), 969.1(g)] and 929.5 [949.5 and 969.5]~~. The Director shall submit a complete copy of the Confidential Archaeological Letter, and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System, within 30 days from the date of Notice of Exemption submittal to the Director. Before submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of Exemption to Native Americans defined in 14 CCR § 895.1. *****

§ 1038(i)(10)(B)(i)

***** (i) Post treatment stand shall contain no more than 200 trees per acre over 3 inches in dbh, when consistent with 14 CCR § 1038(i)(9)(A)-(E). *****

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1 **§ 1039.1**

2 *****The effective period of the plan within the meaning of PRC §§ 4590 and 4591 is the three
3 (3)- year period following the date the plan is determined to be in conformance or otherwise
4 becomes effective pursuant to PRC § 4582.7. Timber operations shall commence no earlier
5 than the expected date of commencement stated in the plan and shall be completed no later
6 than the expected date of completion stated in the plan except under the following conditions:

7 (a) An amendment to change the completion date stated in a plan has been submitted to the
8 Director at least ten (10) days before the expected date of completion.

9 (b) An amendment to extend the effective period of a plan beyond three (3) years is submitted in
10 compliance with PRC§ 4590, which includes a map showing clearly the area pertaining to the
11 request for extension.

12 Upon receipt of such amendment, the Director shall determine whether the change in date
13 constitutes a substantial deviation of the plan. An extension of time is presumed to be a minor
14 deviation, provided the extension does not lead to practices that constitute a substantial
15 deviation, as defined in ~~Section 1036, 14 CAC~~ 14 CCR § 895.1. If the Director determines that
16 such change of date constitutes a substantial deviation, then the Director shall, prior to the date
17 to be changed, so notify the person submitting the plan. In this case, an amended plan shall be
18 submitted and no timber operations shall be conducted pursuant to such proposed change until
19 such amendment is found in conformance with PRC § 4582.7.

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21 Note: Authority cited: Sections 4551, 4553, 4590 and 4591, Public Resources Code. Reference:
22 Sections 4582.7, 4590, 4591 and 4591.1, Public Resources Code. *****

1 **§ 1041**

2 *****A plan shall be limited to an area with reasonably similar timber, geology, soil, topography,
3 climate, and stream characteristics that would constitute a logical harvesting unit. A plan should
4 be limited to that area on which timber operations normally will be completed in one 12-month
5 period, but in no case shall it extend beyond ~~36 months~~ three (3) years after the plan is
6 determined to be in conformance or otherwise becomes effective under PRC § 4582.7. Plans
7 shall be limited to lands within a particular forest district.*****

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9 **§ 1092.01(e)**

10 *******(e)** A PTHP shall be limited to an area with reasonably similar timber geology, soil,
11 topography, climate, and stream characteristics that would constitute a logical harvesting unit. A
12 PTHP should be limited to that area on which timber operations normally will be completed in
13 one 12-month period, but in no case shall it extend beyond ~~36 months~~ three (3) years after the
14 PTHP is determined to be in conformance or otherwise becomes effective under PRC § 4582.7,
15 unless an amendment to extend the effective period is submitted and accepted by the
16 Department per PRC § 4590(a)(1). PTHPs shall be limited to lands within a particular forest
17 district.*****

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19 *****Note: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference:
20 Sections 4551, 4553 and 4590(a)(1), Public Resources Code.*****

1 **§ 1092.28(a)**

2 *****a) The effective period of the PTHP within the meaning of PRC §§ 4590 and 4591 is the ~~3~~
3 ~~year period~~ three (3) years following the date the PTHP is determined to be in conformance or
4 otherwise becomes effective pursuant to § 4582.7. Timber operations shall commence no
5 earlier than the expected date of commencement stated in the PTHP and shall be completed no
6 later than the expected date of completion stated in the PTHP except under the following
7 conditions:

8 (1) An amendment to change the completion date stated in a PTHP has been submitted to the
9 Director at least ten days before the expected date of completion.

10 (2) An amendment to extend the effective period of a PTHP beyond three (3) years is submitted
11 in compliance with PRC § 4590 which includes a map showing clearly the area pertinent to the
12 request for extension. *****

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14 *****Note: Authority cited: Sections 4551, 4553, 4590 and 4591, Public Resources Code.

15 Reference: Sections 4582.7, 4590, 4591 and 4591.1, Public Resources Code.*****

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