

REGULAR

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2014-0318-10</b>	REGULATORY ACTION NUMBER <b>2014-1010-035</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

For use by Secretary of State only

ENDORSED FILED IN THE OFFICE OF

2014 NOV 13 PM 2:03

2014 OCT 10 PM 4:54

OFFICE OF ADMINISTRATIVE LAW

Debra Bowen  
DEBRA BOWEN  
SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY <b>CAL FIRE/BOFFP Board of Forestry &amp; Fire Protection</b>	AGENCY FILE NUMBER (if any)
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**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)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER <b>2014, 132</b>	PUBLICATION DATE <b>3/28/2014</b>

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) <b>Emergency Notice - Native American Notification Amendments, 2014</b>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) <b>Z-2014-0318-10 per agency request RS</b>
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	AMEND <b>895.1, 929.1, 949.1, 969.1, 1052</b>
TITLE(S) <b>14</b>	REPEAL

3. TYPE OF FILING	<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only		
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4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND PROVISIONS ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  
**July 10, 2014 to July 25, 2014 per agency request RS**

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)  
 Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))  Effective on filing with Secretary of State  \$100 Changes Without Regulatory Effect  Effective other (Specify) **January 1, 2015 per PRC § 4554.5**

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 <b>Thembi Borrás</b>	TELEPHONE NUMBER <b>916-653-9633</b>	FAX NUMBER (Optional) <b>916-653-0989</b>	E-MAIL ADDRESS (Optional) <b>thembi.borras@fire.ca.gov</b>
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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 <b>October 10, 2014</b>
TYPED NAME AND TITLE OF SIGNATORY <b>Thembi Borrás, CAL FIRE/BOFFP Regulations Coordinator</b>	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 13 2014

Office of Administrative Law

State of California  
Office of Administrative Law

RECEIVED BY  
NOV 14 2014

In re:  
Board of Forestry and Fire Protection

NOTICE OF APPROVAL OF REGULATORY  
ACTION

Regulatory Action:

Government Code Section 11349.3

Title 14, California Code of Regulations

OAL File No. 2014-1010-03 S

Adopt sections:

Amend sections: 895.1, 929.1, 949.1, 969.1,  
1052

Repeal sections:

The Board of Forestry and Fire Protection proposed this action to amend five sections in title 14 of the California Code of Regulations generally pertaining to emergency timber harvest procedure and notice requirements. The proposed amendments will provide Native American contacts seven days to review and respond to notifications of emergency timber operations in areas exceeding three acres in order to identify the existence of any culturally sensitive resources that may be affected by timber operations.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2015.

Date: 11/13/2014



Richard L. Smith  
Senior Attorney

For: DEBRA M. CORNEZ  
Director

Original: George Gentry  
Copy: Thembi Borrás

1 **Board of Forestry and Fire Protection**

2 **“EMERGENCY NOTICE –**

3 **NATIVE AMERICAN NOTIFICATION AMENDMENTS, 2014”**

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

5 **Division 1.5, Chapter 4, Subchapters 4, 5, & 6, Article 14; Subchapter 7, Article 2**

6  
7 **AMEND:**

8 **§ 895.1 Definitions**

9 **§ 929.1, [949.1, 969.1] Plan, and Emergency Notice Preparation [All Districts]**

10 **§ 1052 Emergency Notice**

11  
12 **§ 895.1 Definitions**

13 \*\*\*\*\*

14 **“Confidential Archaeological Letter”** means the archaeological and historical  
15 resources survey and impact assessment prepared for an Emergency Notice covering  
16 three acres or more in size. It is included with the submittal of the Emergency Notice to  
17 the Director and contains all information required by 14 CCR § 929.1 [949.1, 969.1]  
18 (c)(2), (3), (7), (8), (9), (10), and (11), including site records, as required pursuant to 14  
19 CCR §§ 929.1 [949.1, 969.1] (g) and 929.5 [949.5, 969.5]. The information may be  
20 presented in either a letter or report format. It is confidential to the extent permitted  
21 pursuant to Government Code §§ 6254(r) and 6254.10 and shall not be included in any  
22 document provided to the public.

23 \*\*\*\*\*

1 Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4561.6, 4562, 4562.5,  
2 4562.7 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4525.5,  
3 4525.7, 4526, 4528, 4551, 4551.5, 4561, 4561.6, 4562, 4562.5, 4562.7, 4583.2, 4591.1,  
4 21001(f), 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines  
5 Appendix K (printed following Section 15387 of Title 14 Cal. Code of Regulations),  
6 Laupheimer v. State (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82 and Joy Road Area  
7 Forest and Watershed Association v. California Department of Forestry & Fire  
8 Protection, Sonoma County Superior Court No. SCV 229850.

1 **§ 929.1, [949.1, 969.1] Plan, and Emergency Notice Preparation [All Districts]**

2 **(a) Preparing a plan.**

3 Prior to submitting a plan, the RPF, or the RPF's supervised designee: \*\*\*\*\*

4  
5 \*\*\*\*\***(e) Emergency Notice of 3 Acres Or More.**

6 **(1) Prior to submitting an Emergency Notice of three acres or more, the RPF:**

7 **(A) Shall ensure that an archaeological field survey is, or has been**  
8 **previously conducted by a professional archaeologist or person with archaeological**  
9 **training (pursuant to 14 CCR § 929.4 [949.4, 969.4]) within the site survey area.**

10 **(B) Shall provide written notification to Native Americans of the**  
11 **preparation of an Emergency Notice. The primary purpose for this notification is to**  
12 **provide Native Americans an opportunity to disclose the existence of any Native**  
13 **American archaeological or cultural sites that are potentially within or adjacent to the**  
14 **site survey area, and the opportunity to comment on the Emergency Notice. The RPF**  
15 **shall allow a minimum of seven (7) days for response to this notice before submitting**  
16 **Emergency Notice(s) to the Director. The remainder of the seven (7) day waiting period**  
17 **is waived when all Native Americans required to be informed respond in less than seven**  
18 **(7) days. This notice shall contain the following attachments or items of information:**

19 **1. A request for information concerning the potential existence of**  
20 **any Native American archaeological or cultural sites within the Emergency Notice area**  
21 **identified by the RPF.**

22 **2. Information concerning the location of the Emergency Notice**  
23 **including:**

1 a. A general location map that, at a minimum, shows the  
2 travel route from the nearest community or well-known landmark to the Emergency  
3 Notice area.

4 b. A copied segment of the titled USGS (if available) or  
5 equivalent map(s) that displays the approximate boundary of the Emergency Notice  
6 area, and includes a map legend and a scale.

7 c. A description of the Emergency Notice location including  
8 the county, section, township, range, base and meridian, and the approximate direction  
9 and distance from the nearest community or well-known landmark.

10 3. A statement that all replies, comments, questions, or other  
11 information submitted by Native Americans as a result of this notice be directed to the  
12 RPF. The name, address, and phone number of the RPF shall be provided.

13 4. Information concerning the available time for response. Indicate  
14 that the RPF is requesting a response within seven (7) days from the date of the notice.

15 (2) Prior to submitting an Emergency Notice of three acres or more, the RPF or  
16 the RPF's supervised designee:\*\*\*\*\*

17  
18 \*\*\*\*\*~~(C)~~ Shall send a copy of the Emergency Notice to Native Americans. \*\*\*\*\*

19 Note: Authority cited: Sections 4551 and 4551.5, Public Resources Code.

20 Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

1 \*\*\*\*\*§ 1052 Emergency Notice

2 (a) Before cutting or removing timber on an emergency basis, \*\*\*\*\*

3 (10) For Emergency Notices covering three acres or more in size, the RPF shall  
4 include a Confidential Archaeological Letter with the Emergency Notice submitted to the  
5 Director. ~~The Confidential Archaeological Letter shall include all information required by~~  
6 ~~14 CCR §929.1 [949.1, 969.1](c)(2), (7), (8), (9), (10) and (11), including site records, if~~  
7 ~~required pursuant to 14 CCR §929.1 [949.1, 969.1](g) and 929.5. The Director shall also~~  
8 submit a complete copy of the Confidential Archaeological Letter and two copies of any  
9 required archaeological or historical site records, to the appropriate Information Center  
10 of the California Historical Resource Information System within 30 days from the date of  
11 Emergency Notice submittal to the Director. ~~Prior to submitting the emergency notice to~~  
12 ~~the Director the RPF shall send a copy of the emergency notice to Native Americans as~~  
13 ~~defined in 14 CCR §895.1.\*\*\*\*\*~~

14  
15 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.

16 Reference: Sections 4592, 4750, 4750.3 and 4750.4, Public Resources Code.

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