

State of California
Office of Administrative Law

RECEIVED BY
NOV 17 2016
BOARD OF FORESTRY AND FIRE PROTECTION

In re:
Board of Forestry and Fire Protection

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections:

Amend sections: 1104.1(l)

Repeal sections:

NOTICE OF APPROVAL OF REGULATORY
ACTION

Government Code Section 11349.3

OAL Matter Number: 2016-1004-02

OAL Matter Type: Regular (S)

This rulemaking action by the Board of Forestry and Fire Protection provides an exception to the existing prohibition on timber operations on significant archeological sites.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2017.

Date: November 15, 2016



Eric Partington
Senior Attorney

For: Debra M. Cornez
Director

Original: Matt Dias
Copy: Matt Dias

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826



DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Matt Dias
FROM: OAL Front Desk *JD*
DATE: November 17, 2016
RE: Return of Rulemaking Materials
OAL Matter Number 2016-1004-02
OAL Matter Type Regular (S)

OAL hereby returns the rulemaking record your agency submitted for review regarding "'Less Than 3 Acre Conversion Amendments, 2016'."

If this is an approved matter, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption concerning the effective date of the regulation approved in this matter applies, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the agency will include the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's web site after OAL posts the Internet Web site link to the full text of the regulation that is received from the agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Unless an exemption applies, Government Code section 11343 now requires:

1. **Section 11343(c)(1):** Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. **Section 11343(c)(2):** Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at postedregslink@oal.ca.gov.

NOTE ABOUT EXEMPTIONS. Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; or regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq. regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2016-0628-04	REGULATORY ACTION NUMBER 2016-1004-025	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

ENDORSED - FILED
 in the office of the Secretary of State
 of the State of California

NOV 15 2016

2016 OCT -4 P 3 31
OFFICE OF ADMINISTRATIVE LAW

1:44 p.m.

AGENCY WITH RULEMAKING AUTHORITY Board of Forestry and Fire Protection	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)
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 2016, 28-2	PUBLICATION DATE 7/8/2016

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) "Less Than 3 Acre Conversion Amendments, 2016"	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND §1104.1(l)
	REPEAL
TITLE(S) 14 CCR	

3. TYPE OF FILING

<input checked="" 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 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 type="checkbox"/> §100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) January 01, 2017
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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 56660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Matt Dias	TELEPHONE NUMBER (916) 653-8007	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) matt.dias@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 	DATE 10/04/2016
TYPED NAME AND TITLE OF SIGNATORY Matt Dias, Executive Officer, Board of Forestry and Fire Protection	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 15 2016

Office of Administrative Law

1 **Board of Forestry and Fire Protection**
2 **"Less Than 3 Acre Conversion Amendments, 2016"**
3 **Title 14 of the California Code of Regulations (14 CCR)**
4 **Division 1.5, Chapter 4,**
5 **Subchapter 7, Article 7**

7 **Amend:**

8 **§ 1104.1 Conversion Exemptions**

9 1104.1

10 ****

11 (a)(2)(H) No sites of rare, threatened or endangered plants or animals shall be disturbed,
12 threatened or damaged and no timber operations shall occur within the buffer zone of a
13 sensitive species as defined in 14 CCR 895.1.

14 (I) No timber operations on significant historical or archeological sites, except under
15 the following conditions:

16 1. If a significant archeological site is identified by the RPF preparing the Notice
17 of Conversion Exemption within the project boundary, the site may be
18 preserved in place by capping or covering with a layer of soil prior to
19 submission.

20 a. If a site has been preserved in place, the RPF preparing the Notice of
21 Conversion Exemption shall obtain written concurrence from a
22 Department Archeologist prior to submission indicating operations will
23 not cause damage to a significant archeological site.

24 b. The written concurrence from a Department Archeologist shall be
25 submitted with the Notice of Conversion Exemption.

26 (J) The RPF and the timber operator shall meet (on-site, or off-site) if *****

1 Note: Authority cited: Sections 4551, 4553, 4584, 4604, 4611 and 4628, Public
Resources Code.

2 Reference: Sections 4512, 4513, ~~4628 and 4584~~, 4628 and 21083.2(b)(3), Public
Resources Code.

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BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.bof.fire.ca.gov
(916) 653-8007

**MEMO**

November 15, 2016

Mr. Eric Partington, Senior Attorney
Office of Administrative Law
300 Capitol Mall
Sacramento, California 95814

Subject: File No. 2016-1004-02S

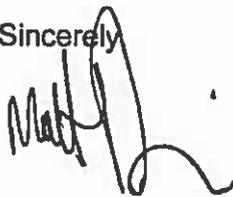
Mr. Partington,

Please find attached the changes and additions to File No. 2016-1004-02S discussed with me on November 14th, 2016. The items discussed are listed below:

<u>Item</u>	<u>Description</u>
1.	Please replace the Table of Contents that was originally submitted with the one I have attached.
2.	Please replace the signed Certification of Completion & Closure that was originally submitted with the one I have attached.
3.	Please replace Bates Number page 16 of the FSOR with the one I have attached.
4.	Please replace the final rule text with the Bates numbering within the rule file that was originally submitted with the revised final rule text that I have attached. Also, please replace the final rule text submitted with the STD. 400 regulations submission document with the revised final rule text without the Bates numbering that I have attached.
5.	Please add to the record the August 2016 Board Meeting Minutes that I have attached, starting with page 48.1 and ending with page 48.8.

If you have any questions or need additional information, please call me at (916) 653-8007.

Sincerely

A handwritten signature in black ink, appearing to read "Matt Dias", with a stylized flourish at the end.

**Matt Dias, Executive Officer
State Board of Forestry and Fire Protection**