

1 **Emergency Regulation**

2 **Emergency Notice for Sudden Oak Death, 2011**

3 **[Adopted by BOF on January 5, 2011]**

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

5
6 **Amend:**

7 § 895 Abbreviations Applicable Throughout the Chapter.

8 § 916.9 [936.9, 956.9] Protection and Restoration of the Beneficial Functions of the Riparian Zone in
9 Watersheds with Listed Anadromous Salmonids.

10 § 1052 Emergency Notice.

11 § 1052.1 Emergency Conditions.

12 § 1052.2 Emergency Substantiated by RPF.

13 **Adopt:**

14 § 1052.5. Emergency Notice for Outbreaks of Sudden Oak Death Disease.
15
16
17
18
19
20
21
22
23
24
25

1 **Amend 14 CCR § 895. Abbreviations Applicable Throughout the Chapter.**

2
3 ***** CAL Confidential Archaeological Addendum

4 **CAL FIRE California Department of Forestry and Fire Protection**

5 CCR Code of Regulations*****

6 *****Sec. Section

7 **SOD Sudden Oak Death**

8 **SOE*******

9 Note: Authority cited: Sections 4551, 4551.5, 4554.5, 4555 and 21082, Public Resources Code.

10 Reference: Sections 4511, 4512, 4513, 4521.3, 4522, 4522.5, 4523-4525, 4525.3, 4525.5, 4525.7, 4526,
11 4526.5, 4527, 4527.5, 4528, 4551, 4551.5, 4552, 4582, 4750, 4750.3, and 4750.4, and 21080.5, Public
12 Resources Code.

13
14
15 **Amend 14 CCR § 916.9 [936.9, 956.9]. Protection and Restoration of the Beneficial Functions of the**

16 **Riparian Zone in Watersheds with Listed Anadromous Salmonids.**

17 *******(t) Emergency notices** - No timber operations are allowed in a WLPZ, or within any ELZ or EEZ
18 designated for watercourse or lake protection, under emergency notices except for:*****

19 *******(8)** The harvest of trees or vegetation designated for removal pursuant to 14 CCR § 1052.5 to
20 address Sudden Oak Death that are:

21 (A) symptomatic of the pathogen that causes Sudden Oak Death and confirmed infected by a
22 certified lab; or

23 (B) host hardwood trees that could spread the pathogen.

24 (u) Salvage logging - *****

1 Note: Authority cited: Sections 4551, 4554.5, 4555, 4562.7 and 21000(g), Public Resources Code.
2 Reference: Sections 751, 4512, 4513, 4551.5, 4750, 4750.3, 4750.4, 21000(g), 21001(b) and 21002.1,
3 Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c),
4 Fish and Game Code.

5
6 **Amend 14 CCR § 1052. Emergency Notice.**

7 (a) Before cutting or removing timber on an emergency basis, an RPF on behalf of a timber owner or
8 operator shall submit a Notice of Emergency Timber Operations to the Director, on form RM-67 (1/1/10),
9 ~~or~~ form RM-65 (1052.4)(1/1/10) for a Fuel Hazard Reduction emergency, or form RM-66 (1052.5)
10 (2/1/11) for a Sudden Oak Death emergency, incorporated by reference herein, as prescribed by the
11 Director. The notice shall include, but not be limited to, the following: *****

12
13 Note: Authority cited: Sections 4551, ~~and 4552~~, 4554.5, 4555 and Public Resources Code. Reference:
14 Section 4592, 4750, 4750.3, and 4750.4, Public Resources Code.

15
16 **Amend 14 CCR § 1052.1. Emergency Conditions.**

17 The following are conditions that constitute an emergency pursuant to 14 CCR § 895.1: *****
18 ***** **(f) An isolated infestation of Sudden Oak Death (caused by *Phytophthora ramorum*), in the**
19 **locations listed below, where such treatments are intended to eradicate the infestation or significantly**
20 **slow the spread of the disease. For the purpose of this rule an isolated infestation is:**

- 21 **(1) an infestation located in a planning watershed where SOD had not previously been noted; or**
22 **(2) an infestation located in a planning watershed that is greater than 1 mile from a known SOD**
23 **infestation; or**
24 **(3) a new infestation within a planning watershed where all known previous SOD infestations**
25 **within the ownership have been or will be subject to control or eradication efforts; or**

1 (4) a location where landowners seek to contain an infestation, even though some landowners
2 have not made proactive efforts within a planning watershed, and the Department's Pest Specialist
3 determines that control efforts may be effective.

4 (5) An isolated infestation is limited to locations in the Coast Forest District (14 CCR § 907),
5 and counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey,
6 Napa, San Mateo, San Luis Obispo, Santa Clara, Santa Cruz, Solano, and Sonoma.

7 The following are conditions that constitute a financial emergency as defined in 14 CCR § 895.1:
8 ***** at the completion of timber operations.

9
10 Note: Authority cited: Sections 4551, 4552, 4554.5, and 4555, Public Resources Code. Reference:
11 Section 4750, 4750.3, 4750.4 and 4592, Public Resources Code.

12
13
14 **Amend 14 CCR § 1052.2. Emergency Substantiated by RPF.**

15 The RPF preparing the Notice of Emergency Timber Operations shall describe the nature of the
16 emergency and the need for immediate cutting in sufficient detail so that the reason for the emergency is
17 clear. ~~Where tree killing insects have killed and are likely to kill trees within one year on timberland, an~~
18 ~~emergency is presumed to exist. Trees will be considered likely to die when they are determined, by an~~
19 ~~RPF, to be a high risk by either:~~ An emergency is presumed to exist where:

20 (a) Trees or vegetation have been confirmed to be infected with the pathogen that causes Sudden Oak
21 Death through testing by a lab certified by the United States Department of Agriculture, and the RPF has
22 determined that the pathogen is likely to spread to adjacent trees or vegetation, or

23 (b) Tree killing insects have killed and are likely to kill trees within one year on timberland. Trees will
24 be considered likely to die when they are determined, by an RPF, to be high risk by either:

1 **(1a)** Risk classification systems including Smith et al., 1981; The California pine risk-rating system:
2 its development, use, and relationship to other systems; In Hazard-Rating Systems in Forest Insect Pest
3 Management, Hedden et al., eds. USDA Forest Service General Technical Report WO - 27, pp. 53-69;
4 Ferrell. 1989; Ten-year risk-rating systems for California Red Fir and White Fir: development and use;
5 USDA Forest Service General Technical Report PSW-115, 12p.; or similar risk-rating systems recognized
6 by the profession; or

7 **(2b)** Where evidence of a current beetle attack exists (i.e. existence of boring dust, woodpecker
8 feeding, or recent top kill) and these trees are within 100 feet of multiple tree kills. Such trees shall be
9 marked by an RPF or the supervised designee before felling.

10
11 Note: Authority cited: Sections 4551, 4552, ~~and~~ 4554, 4554.5, and 4555, Public Resources Code.

12 Reference: Section 4592, 4750, 4750.3, and 4750.4, Public Resources Code.

13
14
15 **Adopt 14 CCR § 1052.5. Emergency Notice for Outbreaks of Sudden Oak Death Disease.**

16 **(a) The RPF preparing the Emergency Notice shall do all of the following:**

17 **(1) provide as part of the Emergency Notice the certified lab testing results validating that trees**
18 **or vegetation in the infestation area are infected with SOD;**

19 **(2) seek to encompass the entire infestation area and landownership(s) necessary to undertake**
20 **effective control and eradication in the area covered by the Emergency Notice, however, the Emergency**
21 **Notice is not required to encompass these areas;**

22 **(3) evaluate and incorporate habitat requirements for fish, wildlife, and plant species to ensure**
23 **compliance with State and Federal Endangered Species Act using the California Natural Diversity**
24 **database maintained by the DFG, local knowledge of the planning watershed, and consultation with CAL**
25 **FIRE regarding other plans in the Emergency Notice area;**

1 (4) obtain written concurrence from the Department Forest Pest Specialist or Department
2 designee regarding tree and vegetation treatments or removal and strategies to control or suppress the
3 SOD infestation pursuant to 14 CCR § 1052.5 (c);

4 (5) designate for treatment or removal the host hardwood species in the infested areas and within
5 330 feet of the infestation area to control the spread of SOD consistent with Forest Pest Specialist
6 concurrence in (4) above;

7 (6) avoid designation of conifer trees for treatment or removal except as necessary to facilitate the
8 removal of host hardwood species, the salvage of conifer trees accidentally damaged during operations, or
9 as specified by the Department Forest Pest Specialist for purposes of controlling the spread of SOD.

10 (b) Timber operations conducted in accordance with 14 CCR § 1052.5 (a) above shall comply with all
11 rules and regulations of the Board. A person conducting timber operations under an Emergency Notice
12 for Outbreaks of Sudden Oak Death Disease shall comply with all operational provisions of the Forest
13 Practice Act applicable to “Timber Harvest Plan, “THP” and “plan” with the following exceptions or
14 additional requirements:

15 (1) The RPF shall provide written proof of notification regarding the proposed submission of an
16 Emergency Notice for SOD eradication to the NMFS, DFG, U.S. Fish and Wildlife Service (USFWS),
17 and the applicable regional water quality control board. Written notification shall be received by
18 NMFS,DFG, USFWS, and the applicable regional water quality control board at least 10 working days
19 prior to submission of the Emergency Notice.

20 (2) Tree and vegetation removal or treatment within WLPZ areas shall be permitted and limited to
21 symptomatic hardwood trees and shrubs that are infested with SOD or host hardwood trees that will
22 continue to contribute to the spread of SOD. Conifer trees shall not be removed in WLPZs.

23 (3) Timing of operations shall avoid impacts to federal or state listed species.

24 (4) No timber operations shall be conducted on saturated soil conditions.

1 (5) No tree felling operations from July 15 to September 30 that reduce overstory canopy cover in
2 WLPZs.

3 (6) No mechanical site preparation, broadcast burning, or pile burning in the WLPZ.

4 (7) 14 CCR § 916.3, 936.3, and 956.3, subsection (f) does not apply.

5 (8) Where present prior to the start of timber operations, post harvest stocking standards specified
6 in 14 CCR § 912.7, 932.7, and 952.7, subsection (b)(2) shall be met with group A species. Where
7 stocking of Group A species is not sufficient to meet the stocking standards of 14 CCR § 912.7, 932.7,
8 and 952.7, subsection (b)(2), post treatment stocking shall meet those stated in 14 CCR § 913.4, 933.4,
9 and 953.4, subsection (b), Rehabilitation of Understocked Area Prescription. The percentage of stocking
10 requirements met with Group A species on a point count basis shall be no less than the percentage of the
11 basal area they comprised before harvesting.

12 (9) Operations shall be conducted in accordance with conditions stated in 14 CCR § 1038
13 (b)(1),(2),(3),(4),(5),(7), (8), and (10).

14 (10) Tractors or other heavy equipment shall not be used within the WLPZ, except on existing
15 roads.

16 (11) The Department shall track the number of Emergency Notices for outbreaks of SOD, the
17 acreage treated under the notices, and the WLPZ acreage treated under the notices, and report the results
18 to the Board by December 1, 2011.

19 (c) The RPF shall describe the strategies employed which will be utilized to control or suppress the SOD
20 infestation on the harvest area along with those measures to be used to minimize the risk of spreading
21 *Phytophthora ramorum* from the logging area by way of infected soil and infected host material. In
22 developing such strategies, the RPF shall draw from the list of Mitigation and Management
23 Recommendations in the California Oak Mortality Task Force publication *Sudden Oak Death for*
24 *Forestry, August 2010* at: [www.suddenoakdeath.org/diagnosis-and-management/best-management-](http://www.suddenoakdeath.org/diagnosis-and-management/best-management-practices/)
25 [practices/](http://www.suddenoakdeath.org/diagnosis-and-management/best-management-practices/), incorporated by reference herein .

1 Note: Authority cited: Sections 4551, 4551.5, 4552, 4553, 4554.5, 4555, and 4592, Public Resources
2 Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 4750, 4750.3, 4750.4, 21001(f)
3 and 21080(b)(4), Public Resources Code.