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**State of California
Office of Administrative Law**

BOARD OF FORESTRY AND FIRE PROTECTION

**In re:
Board of Forestry and Fire Protection**

Regulatory Action:

Title 14, California Code of Regulations

Amend sections: 1052, 1052.1

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

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

OAL Matter Number: 2019-0619-01

OAL Matter Type: Nonsubstantive (N)

This change without regulatory effect filing by the Board of Forestry and Fire Protection relocates and revises the subdivision lettering of regulatory provisions concerning conditions that constitute an emergency.

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

Date: July 31, 2019



**Nicole C. Carrillo
Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Matt Dias, Executive Officer
Copy: Eric Hedge**

OFFICE OF ADMINISTRATIVE LAW

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Holly Pearson
Acting Director

MEMORANDUM

TO: Eric Hedge
FROM: OAL Front Desk
DATE: August 1, 2019
RE: Return of Rulemaking Materials
OAL Matter Number 2019-0619-01
OAL Matter Type Nonsubstantive (N)

OAL hereby returns the rulemaking record your agency submitted for review regarding "14 CCR Section 1052.1 Non-Substantive Amendments."

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 (the following does not apply to files that have been disapproved or withdrawn)

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

NONSUBSTANTIVE

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2019-0619-01N	

For use by Office of Administrative Law (OAL) only

2019 JUN 19 A 9:25
OFFICE OF ADMINISTRATIVE LAW

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

JUL 31 2019

1:59 PM

NOTICE

REGULATIONS

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) 14 CCR Sec. 1052.1 Non-Substantive Amendments	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
	14	REPEAL

1052.1, 1052 per agency request

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) _____

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 Eric Hedge	TELEPHONE NUMBER 916.653.9633	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) eric.hedge@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 6/19/19
TYPED NAME AND TITLE OF SIGNATORY Eric Hedge, Regulations Coordinator, Board of Forestry and Fire Protection	

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ENDORSED APPROVED

JUL 31 2019

Office of Administrative Law

1 **Board of Forestry and Fire Protection**
2 **Title 14 of the California Code of Regulations (CCR),**
3 **Division 1.5, Chapter 4,**
4 **Subchapter 7, Article 2**

5 **§ 1052. Emergency Notice**

6 *****

7 (d) Timber Operations pursuant to an Emergency Notice may not commence for five
8 working days, 15 days for a fuel hazard Emergency per 14 CCR §§ 1052.1(~~ae~~)(5) and
9 1052.4, from the date of the Director's receipt of the Emergency Notice unless such
10 waiting period is waived by the Director. The Director shall determine whether the
11 Emergency notice is complete. If it is found to be complete the Director shall send a
12 copy of a notice of acceptance to the Timberland owner. If the Emergency Notice is not
13 complete it shall be returned to the submitter. If the Director does not act within five
14 working days, 15 days for a fuel hazard Emergency per 14 CCR §§ 1052.1(~~ae~~)(5) and
15 1052.4, of receipt of the Emergency Notice, Timber Operations may commence.

16 *****

17 Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference:
18 Sections 4592, 4750, 4750.3 and 4750.4, Public Resources Code.

19
20 **§ 1052.1 Emergency Conditions**

21 (a) The following are conditions that constitute an Emergency pursuant to 14 CCR §
22 895.1:

23 (1a) Trees that are dead or dying as a result of insects, disease, parasites, or animal
24 damage.

1 (2b) Trees that are fallen, damaged, dead or dying as a result of wind, snow, freezing
2 weather, drought, fire, flood, landslide or earthquake.

3 (3e) Trees that are dead or dying as a result of air or water pollution.

4 (4d) Cutting or removing trees required for Emergency construction or repair of roads.

5 (5e) Where high, very high or extreme fuel hazard conditions, the combination of
6 combustible fuel quantity, type, condition, configuration and terrain positioning, pose a
7 significant fire threat on private Timberlands. Cutting and removal of hazardous fuels,
8 including trees, shrubs and other woody material, is needed to eliminate the vertical and
9 horizontal continuity of Understory fuels, Surface Fuels, and/or crown fuels, for the
10 purpose of reducing the rate of fire spread, fire duration and intensity, and fuel
11 ignitability.

12 ~~The following are conditions that constitute a financial Emergency as defined in 14 CCR~~
13 ~~§ 895.1:~~

14 ~~Potential financial loss of timber previously inoperable or unmerchantable due to one or~~
15 ~~more of the following factors: access, location, condition, or timber volume that has~~
16 ~~unexpectedly become Feasible to harvest provided that the harvest opportunity will not~~
17 ~~be economically Feasible for more than 1 year and provided that such operations meet~~
18 ~~the conditions specified in 14 CCR § 1038(b)(1)-(10) and meet minimum Stocking~~
19 ~~requirements at the completion of Timber Operations.~~

20 (6f) An isolated infestation of Sudden Oak Death (SOD) (caused by *Phytophthora*
21 *ramorum*), in the locations listed below, where such treatments are intended to
22 eradicate the infestation or significantly slow the spread of the disease. For the purpose
23 of this rule an isolated infestation is:

24 (A4) aAn infestation located in a Planning Watershed where SOD had not
25 previously been noted; or

per agency
request
NC 7/26/19

1 (B2) aAn infestation located in a Planning Watershed that is greater than 1 mile
2 from a known SOD infestation; or

3 (C3) aA new infestation within a Planning Watershed where all known previous
4 SOD infestations within the ownership have been or will be subject to control or
5 eradication efforts; or

6 (D4) aA location where landowners seek to contain an infestation, even though
7 some landowners have not made proactive efforts within a Planning Watershed,
8 and the Department's Pest Specialist determines that control efforts may be
9 effective.

10 (E5) An isolated infestation is limited to locations in the following counties:
11 Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino,
12 Monterey, Napa, San Mateo, San Luis Obispo, Santa Clara, Santa Cruz, Solano,
13 and Sonoma.

14 (b) The following are conditions that constitute a financial Emergency as defined in 14
15 CCR § 895.1:

16 (1) Potential financial loss of timber previously inoperable or unmerchantable due to one
17 or more of the following factors: access, location, condition, or timber volume that has
18 unexpectedly become Feasible to harvest provided that the harvest opportunity will not
19 be economically Feasible for more than 1 year and provided that such operations meet
20 the conditions specified in 14 CCR §§ 1038.1(c)(5)-(14) and 1038.3(p) and meet
21 minimum Stocking requirements at the completion of Timber Operations.

22
23 Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference:
24 Sections 4592, 4750, 4750.3 and 4750.4, Public Resources Code.

25