

REGULAR

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
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Z-2013-0813-09

203-1120-015

ENDORSED FILED
IN THE OFFICE OF

2013 NOV 27 PM 4:04

For use by Office of Administrative Law (OAL) only

2013 NOV 22 PM 12:26
OFFICE OF
ADMINISTRATIVE LAW

 DEBRA BOWEN
 SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California 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 Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	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) Class II-L Identification and Protection, 2013	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) Z-2012-0828-04
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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 § 895.1, §§ 916.9 [936.9, 956.9]
	REPEAL
TITLE(S) 14	

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 §511346.2-11347.3 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 Resubmittal of disapproved or withdrawn nonemergency filing (Gov.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 §511349.3, 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 Resubmittal of disapproved or withdrawn emergency filing (Gov.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 1, 2014 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 Eric Huff, Regulations Coordinator	TELEPHONE NUMBER 916-653-9633	FAX NUMBER (Optional) 916-653-0989	E-MAIL ADDRESS (Optional) eric.huff@fire.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 November 22, 2013
TYPED NAME AND TITLE OF SIGNATORY Eric Huff, CAL FIRE/BOFFP Regulations Coordinator	

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ENDORSED APPROVED

NOV 27 2013

Office of Administrative Law

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For use by Office of Administrative Law (OAL) only		2013 NOV 20 AM 8:44	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Board of Forestry and Fire Protection			AGENCY FILE NUMBER (if any)

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ADOPT
AMEND § 895.1, §§ 916.9 [936.9, 956.9]
REPEAL
TITLE(S) 14

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SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE November 20, 2013
TYPED NAME AND TITLE OF SIGNATORY Eric Huff, CAL FIRE/BOFFP Regulations Coordinator	

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1 **CLASS II-L IDENTIFICATION AND PROTECTION AMENDMENTS, 2013**

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

3 **Division 1.5, Chapter 4, Subchapters 4, 5, & 6,**

4 **Article 6 – Watercourse and Lake Protection**

5 **Amend:**

6 **§ 895.1**

Definitions

7 **§ 916.9 [936.9, 956.9](c)(4)**

Class II lLarge wWatercourses (Class II-L)

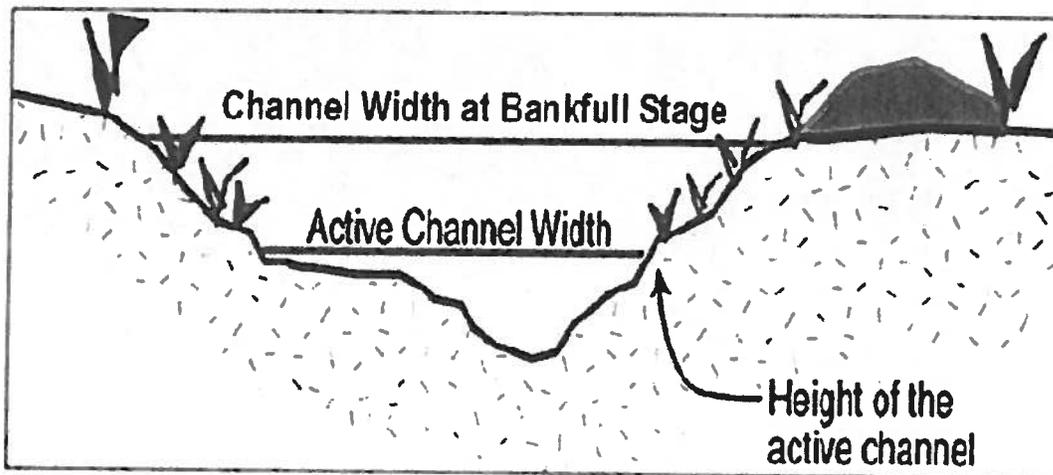
8 **§ 916.9 [936.9, 956.9](g)**

Class II wWatercourses

9
10 **§ 895.1. Definitions**

11 **Act** means the Z'berg-Nejedly Forest Practice Act of 1973 as currently amended
12 (commencing with Section 4511 of the Public Resources Code).

13
14 **Active Channel Width** means the width of a watercourse channel at the height
15 of the active channel. The active channel width may be indicated by absence of
16 vegetation or the presence of actively scoured sediment (see Figure 4).



24 **Figure 4: Depiction of channel width at bankfull channel stage compared to active channel**
25 **width (modified from California Department of Fish and Game's (CDFG) Salmonid Stream Habitat**
Restoration Manual, Taylor and Love, 2003).

1 **Active Nest** means a bird nest site at which breeding efforts*****

2
3 Note: Authority cited: Sections 4551, 4551.5, 4553, and 4562.7, Public Resources
4 Code. Reference: Sections 4512, 4513, and 4528, Public Resources Code.

5
6 **§ 916.9 [936.9, 956.9](c) Objectives for timber operations or silvicultural**
7 **prescriptions in WLPZs – Any timber operation or silvicultural prescription*******

8 *******(4) Class II Large wWatercourses (Class II-L):** The primary
9 objective is to maintain, protect or restore the values and functions of Class II-L type
10 watercourses described below. Class II-L watercourses can have greater individual
11 effects on receiving Class I watercourse temperature, sediment, nutrient, and large
12 wood loading than Class II standard (Class II-S) watercourses due to larger channel
13 size, greater magnitude and duration of flow, and overall increased transport capacity
14 for watershed products. ~~Class II-L type watercourses: (i) can supply water and nutrients~~
15 ~~to a Class I watercourse during the month of July during a year of average precipitation~~
16 ~~and runoff as derived from long term average precipitation data sets available from CAL~~
17 ~~FIRE, U.S. Geological Survey, or National Oceanic and Atmospheric Administration~~
18 ~~(NOAA), (ii) can supply coarse and fine sediment to the Class I channel, and (iii) may be~~
19 ~~able to supply wood of a size that would function as large wood for the Class I~~
20 ~~watercourse. Recruitment, delivery and retention of large wood in Class II-L type~~
21 ~~watercourses is also critical, as large wood increases sediment storage and decreases~~
22 ~~the rate of sediment transport to fish bearing Class I watercourses. Other objectives~~
23 stated in 14 CCR § 916.9 [936.9, 956.9] subsections (c)(1) and (2) above for the Core
24 Zone and Inner Zone are also desired objectives for Class II-L type watercourses.

25 **(5) A primary objective for all WLPZs*******

1
2 **§ 916.9 [936.9, 956.9] (g) Class II wWatercourses –**

3 The following are the minimum requirements for Class II WLPZ delineation and timber
4 operations. Differing rules are specified for watersheds in the coastal anadromy zone,
5 the Southern Subdistrict of the Coast Forest District, and areas outside the coastal
6 anadromy zone. WLPZ width ranges from 50 to 100 feet slope distance, depending on
7 side slope steepness in the WLPZ and the watercourse type. Additional site-specific
8 measures may be incorporated into the plan as necessary to protect beneficial uses of
9 water relative to riparian function pursuant to 14 CCR § 916.2(c), 916.4(a)(1), and 916.9
10 (b).

11 **(1) Determine the Class II Watercourse Type:** Class II watercourses are
12 composed of two types - Class II-S (standard) watercourses and Class II-L (large)
13 watercourses. Class II-S watercourses are those classified as Class II watercourses
14 pursuant to 14 CCR § 916.5 [936.5, 956.5], but do not possess the characteristics of a
15 Class II-L watercourse. A Class II-L watercourse is defined as a Class II watercourse
16 that: (i) can supply water and nutrients to a Class I watercourse during the month of July
17 during an average hydrologic year; (ii) can supply coarse and fine sediment to the Class
18 I channel; and (iii) may be able to supply wood of a size that would function as large
19 wood for the Class I watercourse. Identification of Class II-L watercourse types shall be
20 based on one or more of the office methods specified under 14 CCR § 916.9 [936.9,
21 956.9] subsection (g)(1)(A) and the field methods specified under 14 CCR § 916.9
22 [936.9, 956.9], subsection (g)(1)(B). Class II-S watercourses are those classified as
23 Class II watercourses pursuant to 14 CCR § 916.5 [936.5, 956.5], but do not meet the
24 definition of a Class II-L watercourse.

1 (A) A Class II-L watercourse is defined as a Class II watercourse
2 having either of the following characteristics: ~~Office-based approaches to identify~~
3 potential Class II-L watercourses:

4 1. A ~~C~~contributing drainage area of ≥ 100 acres in the Coast
5 Forest District, or ≥ 150 acres for the Northern and Southern Forest Districts, as
6 measured from the confluence of the receiving Class I watercourse. ~~Stream order:~~
7 ~~After classifying the watercourses in an area pursuant to 14 CCR \S 916.5 [936.5,~~
8 ~~956.5], map all Class II watercourses in the area of consideration on current 1:24,000~~
9 ~~scale U.S. Geological Survey topographic maps and determine stream order following~~
10 ~~the stream order method in 14 CCR \S 895.1. Second order and third order Class II~~
11 ~~watercourses are potentially Class II-L watercourses.~~

12 2. An average active channel width of five feet (5 ft.) or
13 greater near the confluence with the receiving Class I watercourse. Where field
14 measurements are necessary to make this determination, active channel width
15 measurements shall be taken at approximately fifty foot (50 ft.) intervals beginning at
16 the point where the Class II watercourse intersects the Class I WLPZ boundary and
17 moving up the Class II watercourse for a distance of approximately two-hundred feet
18 (200 ft.) The combined average of these five (5) measurements shall be used to
19 establish the average active channel width. Measurement points may be adjusted
20 based upon site-specific conditions, and should occur at riffle locations and outside the
21 influence of watercourse crossings to the extent feasible. "Blue Line" streams:
22 ~~Watercourses mapped with a blue or black line on current 1:24,000 scale U.S.~~
23 ~~Geological Survey topographic maps that are not Class I are inferred to be Class II-L~~
24 ~~watercourses.~~

1 ~~3. Drainage area: A calculated drainage area known to~~
2 ~~produce mid-late summer flow based on past plan experience or local knowledge for an~~
3 ~~ownership or local region and extrapolated over the ownership or local area can indicate~~
4 ~~a Class II-L watercourses.~~

5 (B) All Class II-L watercourses shall incorporate requirements
6 stated in 14 CCR § 916.9 [936.9, 956.9], subsection (g)(2) for a distance of one-
7 thousand feet (1,000 ft.), or total length of Class II, whichever is less and regardless of
8 Class II type, as measured from the confluence with a Class I watercourse. The RPF
9 shall include the mapped location of Class II-L watercourse segments receiving
10 protections pursuant to 14 CCR § 916.9 [936.9, 956.9], subsection (g)(2) in the plan
11 area. Where such Class II-L watercourses branch prior to the end of the one-thousand
12 foot (1,000 ft.) protection distance, the branch that meets or exceeds the drainage area
13 standards of 14 CCR § 916.9 [936.9, 956.9], subsection (g)(1)(A) shall receive the
14 remainder of the one-thousand foot (1,000 ft.) protection distance. If two or more
15 branches meet or exceed the drainage area standards of 14 CCR § 916.9 [936.9,
16 956.9], subsection (g)(1)(A)1., then the remainder of the one-thousand foot (1,000 ft.)
17 protection distance shall be applied to all branches exceeding the standard. If no
18 individual branch exceeds the drainage area standards of 14 CCR § 916.9 [936.9,
19 956.9], subsection (g)(1)(A)1., then the single branch with the largest drainage area
20 shall receive the remainder of the one-thousand foot (1,000 ft.) protection distance.

21 ~~Field-based approaches to identify potential Class II-L: Determination of Class II-L~~
22 ~~watercourses shall be verified in the field by direct channel observations and local~~
23 ~~experience using one or more of the following approaches.~~

24 ~~1. Determine by direct observation or by local knowledge of~~
25 ~~common mid-summer flow conditions if office mapped Class II-L watercourses~~

1 contribute flow to a Class I watercourse at least through approximately July 15th
2 following a year with at least average precipitation.

3 ~~2. Observe channel characteristics such as channel width at~~
4 ~~bankfull stage, channel depth at bankfull stage, channel slope, mean entrenchment~~
5 ~~ratio, the presence of springs or seeps, and the presence of aquatic animal and plant~~
6 ~~life that require mid-summer flow.~~

7 ~~3. Use continuous streamflow monitoring data from~~
8 ~~headwater watercourses to determine the watershed drainage area necessary to initiate~~
9 ~~mid-summer streamflow for a given ecoregion and extrapolate this data to other~~
10 ~~headwater basins in that ecoregion.~~

11 (C) The above method for determination of Class II watercourse
12 type shall sunset on January 1, 2019 pending further evaluation of the efficacy of Class
13 II WLPZ widths and operational requirements in relationship to watercourse
14 characteristics and achievement of the goals specified in 14 CCR § 916.9 [936.9, 956.9]
15 subsection (a). The Department shall report to the Board at least once annually on the
16 use and effectiveness of 14 CCR § 916.9 [936.9, 956.9] subsection (g) for as long as
17 this rule section remains effective. Based on (A) and (B) above, make a determination if
18 the portion of the Class II watercourse being evaluated meets the definition of a Class
19 II-L watercourse in 14 CCR § 916.9 [936.9, 956.9], subsection (c)(4).

20 ~~(D) Include documentation in the plan explaining how the Class II L~~
21 ~~determination(s) were made within the plan area.~~

22 ~~(E) All Class II L watercourses designated above shall incorporate~~
23 ~~requirements stated in 14 CCR § 916.9 [936.9, 956.9], (g)(2) for a distance of 1000 feet,~~
24 ~~or total length of Class II-L, whichever is less, measured from the confluence with a~~
25 ~~Class I watercourse.~~

1
2 **(2) Class II WLPZ wWidths and eOperational rRequirements: All Class II**
3 **WLPZs shall be composed of two zones*******

4
5 *******(v)** Large trees retained to meet 14 CCR § 916.9
6 [936.9, 956.9], subsections (g)(2)(B)(3.)(i) and (iii) above that are the most conducive to
7 recruitment to provide for the beneficial functions of riparian zones (e.g., trees that lean
8 towards the channel, have an unimpeded fall path toward the watercourse, are in an
9 advanced state of decay, are located on unstable areas or downslope of such unstable
10 areas, or have undermined roots) are to be given priority to be retained as future
11 recruitment trees.

12
13 **Table 4. Core and Inner Zone widths.**

14

Water Class	Class II-S (feet)				Class II-L (feet)			
	Watersheds in the coastal anadromy zone		Watersheds outside the coastal anadromy zone		Watersheds in the coastal anadromy zone		Watersheds outside the coastal anadromy zone	
Slope class	Core Zone (feet)	Inner Zone (feet)	Core Zone (feet)	Inner Zone (feet)	Core Zone (feet)	Inner Zone (feet)	Core Zone (feet)	Inner Zone (feet)
<10%	0	50	0	50	30	70	20	80
10%-≤30%	15	35	10	40	30	70	20	80
30-50%	15	60	10	65	30	70	20	80
>50%	15	85	10	90	30	70	20	80

15
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23 **(3) Class II wWatercourses in the Southern Subdistrict of the Coast Forest**
24 **District: In addition to all other Forest Practice Rules*******

1 Note: Authority cited: Sections 4551, 4553, and 4562.7, Public Resources Code.

2 Reference: Sections 751, 4512, 4513, 4551.5, Public Resources Code.

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