

**State of California
Office of Administrative Law**

In re:
Board of Forestry and Fire Protection

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections:

Amend sections: 916.2, 936.2, 956.2

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2015-0828-01

OAL Matter Type: Emergency (E)

The Board of Forestry and Fire Protection proposed to amend sections 916.2, 936.2, and 956.2, entitled "Protection of the Beneficial Uses of Water and Riparian Functions," in title 14 of the California Code of Regulations as an emergency regulatory action adding a subdivision (d) on water drafting for timber operations.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 9/4/2015 and will expire on 3/3/2016. The Certificate of Compliance for this action is due no later than 3/2/2016.

Date: September 4, 2015

/s/ Craig Tarpenning

Craig S. Tarpenning
Assistant Chief Counsel

For: DEBRA M. CORNEZ
Director

Original: George Gentry
Copy: Thambi Borrás

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

EMERGENCY

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2015-0828-01E
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For use by Office of Administrative Law (OAL) only

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

SEP 4 2015

1:05 PM

2015 AUG 28 A 9:37
OFFICE OF ADMINISTRATIVE LAW
REGULATIONS

NOTICE

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 Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE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) Water Drafting Amendments, 2015	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 916.2, 936.2 and 956.2
	REPEAL
TITLE(S) 14	

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 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 checked="" 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 checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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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 §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input checked="" type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Thembi Borrás	TELEPHONE NUMBER 916-653-9633	FAX NUMBER (Optional) 916-653-0989	E-MAIL ADDRESS (Optional) thembi.borras@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 <i>Thembi Borrás</i>	DATE August 28, 2015
TYPED NAME AND TITLE OF SIGNATORY Thembi Borrás, Regulations Coordinator, Board of Forestry and Fire Protection	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
SEP 04 2015
Office of Administrative Law

1 Board of Forestry and Fire Protection

2 "Water Drafting Emergency Regulations, 2015"

3 Title 14 of the California Code of Regulations (14 CCR),

4 Division 1.5, Chapter 4, Subchapters 4, 5, & 6, Article 6

5
6 **AMEND:**

7 **§ 916.2 [936.2, 956.2] Protection of the Beneficial Uses of Water and Riparian**
8 **Functions**

9
10 *****

11 (d) **Water drafting** - Water drafting for timber operations shall:

12 (1) Comply with Fish and Game Code Section 1600, et seq.

13 (A) Timber operations conducted under a Fish and Game Code
14 Section 1600 master or long-term agreement that includes water drafting may provide
15 proof of compliance with 14 CCR § 916.2 [936.2, 956.2] (d)(1).

16 (2) Describe the water drafting site conditions and proposed water
17 drafting activity in the plan, including:

18 (A) a general description of the conditions and proposed water
19 drafting;

20 (B) a map showing proposed water drafting locations;

21 (C) the watercourse classification;

22 (D) the drafting parameters including the months the site is
23 proposed for use; estimated total volume needed per day; estimated maximum
24 instantaneous drafting rate and filling time; and disclosure of other water drafting
25 activities in the same watershed;

1 (E) the estimated drainage area (acres) above the point of
2 diversion;

3 (F) the estimated unimpeded streamflow, pumping rate, and
4 drafting duration;

5 (G) a discussion of the effects on aquatic habitat downstream from
6 the drafting site(s) of single pumping operations, or multiple pumping operations at the
7 same location, and at other locations in the same watershed;

8 (H) a discussion of proposed alternatives and measures to prevent
9 adverse effects to fish and wildlife resources and other beneficial uses of water, such as
10 reducing hose diameter; using gravity-fed tanks instead of truck pumping; reducing the
11 instantaneous or daily intake at one location; describing allowances for recharge time;
12 using other dust palliatives; and drafting water at alternative sites; and

13 (I) The methods that will be used to measure source streamflow
14 prior to the water drafting operation and the conditions that will trigger streamflow to be
15 measured during the operation.

16

17 Note: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code.

18 Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public

19 Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600

20 and 5650(c), Fish and Game Code.

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