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-	2014-1216-03N	

For use by Office of Administrative Law (OAL) only

2014 DEC 16 PM 4:55

OFFICE OF ADMINISTRATIVE LAW

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: ☐ Notice re Proposed Regulatory Action ☐ Other | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional)

OAL USE ONLY — ACTION ON PROPOSED NOTICE: ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn | NOTICE REGISTER NUMBER | PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Changes w/out Regulatory Effect to SRA Fire Prevention Fee Rules, 2015

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S):

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: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7 and 1665.8

REPEAL:

TITLE(S): 14

3. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ 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.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☐ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ File & Print
- ☐ Other (Specify) _____
- ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only

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)

- ☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- ☐ Effective on filing with Secretary of State
- ☒ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify)

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Thembi Borras	916-653-9633	916-653-0989	thembi.borras@bof.ca.gov

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.**

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Thembi Borras

DATE: December 16, 2014

TYPED NAME AND TITLE OF SIGNATORY: Thembi Borras, Regulations Coordinator for the Board of Forestry and Fire Protection

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box lb. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code §11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number (s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

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: **1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8**
Repeal sections:

NOTICE OF APPROVAL OF CHANGES WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1, Section 100

OAL File No. 2014-1216-03 N

This filing of changes without regulatory effect by the Board of Forestry and Fire Protection (Board) amends 8 sections in Title 14 of the California Code of Regulations. The amendments include grammar, punctuation as well as changes that reflect statutory amendments.

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

Date: 1/29/2015

Peggy J. Gibson
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: George Gentry
Copy: Thembi Borras

Board of Forestry and Fire Protection

"Changes without Regulatory Effect to Rules pertaining to the SRA Fire Prevention Fee, 2015"

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

Division 1.5, Chapter 13

Amend:

§ 1665.1. Authority.

§ 1665.2. Definitions.

§ 1665.3. Determination of Eligible Habitable Structure.

§ 1665.4. Imposition of the Fee.

§ 1665.5. Request for Review and Refunds.

§ 1665.6. Fee Structure.

§ 1665.7. Fee Exemptions.

§ 1665.8. Grant Program.

§ 1665.1. Authority.

This chapter sets out procedures for implementation and collection of "State Responsibility Area Fire Prevention Benefit Fees" (hereafter referred to as "Fee"), as required by Assembly Bill X1 29, Chapter 8, Statutes 2011, ~~Public Resources Code Section~~ PRC § 4210~~,~~ et seq.

Note: Authority cited: Section 4111 and 4212, Public Resources Code. Reference: Sections 4102, ~~4111,~~ 4114, ~~and~~ 4125~~,~~ and 4210, Public Resources Code.

§ 1665.2. Definitions.

"Department" means the California Department of Forestry and Fire Protection.

"Designated Fee Administrator" means a person, company, or other entity retained by the Department to assist with implementation of the Fee and who is qualified by experience in preparing and administering one of the following for a fire district: benefit assessments, benefit fees, or special taxes.

"Dwelling Unit", for purposes of implementation of ~~Sections~~ PRC §§ 4210-4228 ~~of the Public Resources Code~~, is a unit providing independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, and sanitation. Mobile and manufactured homes and condominiums are considered as dwelling units.

"Fee" means the fire prevention benefit fee imposed pursuant to ~~Sections~~ PRC §§ 4210-4228 ~~of the Public Resources Code~~.

"Fire Prevention Fund" means the State Responsibility Area Fire Prevention Fund created by ~~Public Resources Code Section~~ PRC § 4214 for deposit of all annual Fees collected and from which expenditures are authorized pursuant to the annual Budget Act, including grants that may be awarded pursuant to 14 CCR ~~Section~~ § 1665.8.

"Habitable Structure", pursuant to PRC § 4211(a), for purposes of implementation of ~~Sections~~ PRC §§ 4210-4228 ~~of the Public Resources Code~~, means a building ~~containing~~ that contains one or more dwelling units or that can be occupied for residential use. Buildings occupied for residential use include single family homes, multi-dwelling structures, mobile and manufactured homes, and condominiums. Habitable ~~s~~Structures do not include commercial, industrial, or incidental buildings such as detached garages, barns, outdoor sanitation facilities, and sheds.

"Manufactured home" has the same meaning as Health and Safety Code ~~Section~~ §18007(a).

"Mobile home" has the same meaning as Health and Safety Code ~~Section~~ §18008(a).

"Owner of a Habitable Structure", pursuant to PRC § 4211(d), means the person that is the owner of record of a Habitable Structure in the county tax assessor rolls or as recorded in the records of the Department of Housing and Community Development on July 1 of the state fiscal year for which the Fee is due.

"Person", pursuant to PRC § 4211(c), means an individual, trust, joint stock company, business concern, or corporation, including, but not limited to, a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, city and county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

"Property Owner", means the Owner of a Habitable Structure. ~~that individual, company, corporation, or other entity that is the owner of record of said habitable structure on July 1 of the state fiscal year for which the Fee is due.~~

"State Responsibility Area" means those areas defined in ~~Section~~ PRC § 4102 and delineated pursuant to ~~Sections~~ PRC §§ 4125-4128~~of the Public Resources Code~~. These lands are shown on digital maps maintained by the Department at its Sacramento Headquarters and may be viewed there or in low resolution at the Department's website: http://www.bof.fire.ca. gov/sra viewer/.

Note: Authority cited: Sections 4111, 4211, 4212 and 4214, Public Resources Code. Reference: Sections 4102, 4125, 4210 and 4211, Public Resources Code; and Sections 18007(a) and 18008(a), Health and Safety Code.

§ 1665.3. Determination of Eligible Habitable Structure.

Determinations of eligible ~~h~~Habitable ~~s~~Structures and the associated ~~f~~Fees within State Responsibility Areas shall be completed statewide by the Department or for the Department by its Designated Fee Administrator pursuant to ~~Public Resources Code Section~~ PRC § 4210~~,~~ et seq. and the regulations contained herein.

Note: Authority cited: Sections 4111, 4212, 4213 and 4214, Public Resources Code. Reference: Sections ~~4111,~~ 4210, 4211, 4212, 4213 and 4214, Public Resources Code.

§ 1665.4. Imposition of the Fee.

The Fee ~~will~~ shall be imposed on all ~~p~~Property ~~o~~Owners with one or more ~~h~~Habitable ~~s~~Structures within State Responsibility Areas as defined in ~~Public Resources Code Section~~ PRC § 4102 and pursuant to ~~Public Resources Code Sections~~ PRC §§ 4125-4128.

Note: Authority cited: Section 4111 and 4212, Public Resources Code. Reference: Sections 4102, ~~4111,~~ 4125-4128, 4210 and 4211, Public Resources Code.

§ 1665.5. Request for Review and Refunds.

(a) A ~~p~~Property ~~o~~Owner from whom the Fee is determined to be due under ~~Public Resources Code Section~~ PRC § 4213 et seq. may petition the Department for a redetermination regarding the ~~f~~Fee and amount determined within thirty (30) days after service upon him or her of a notice of the determination.

(1) The Department may delegate the receipt and review of petitions to a Designated Fee Administrator of its choice.

(2) The petition may be filled out and submitted by a ~~p~~Property ~~o~~Owner subject to the Fee or by the Department or Designated Fee Administrator in consultation with and on behalf of the ~~p~~Property ~~o~~Owner.

(3) The petition must be based on whether the Fee as specified in ~~Public Resources Code Section~~ PRC § 4213 et seq. applies to the specific property for which the petition was filed. Examples of specific issues that may be considered by the Department or Designated Fee Administrator include, but are not limited to, the location of the Habitable ~~s~~Structure in a~~n~~ SRA, determination of the number of applicable ~~h~~Habitable ~~s~~Structures, and the related Fee amount calculated.

(4) The petition may, but is not required to be on a form prescribed by the Department. At a minimum, the petition must include the following information:

(A) The bill identification or decal number, the parcel number, the County and other information on the original Fee bill received by the petitioner that allows identification of the bill that is the subject of the petition.

(B) The name of the ~~p~~Property ~~o~~Owner(s), their mailing address, and a daytime telephone number at which they may be reached.

(C) The specific reasons upon which the petition is made including, but not limited to, dispute of: the record of ownership or location within a~~n~~ SRA boundary, the number of ~~h~~Habitable ~~s~~Structures included in the calculation of the Fee, and exclusion of the items, specified pursuant to 14 CCR § 1665.7 (Fee Exemptions), ~~deduction specified by 14 CCR Section 1665.7~~ from the Fee bill.

(D) Documentation that provides support for each reason cited in the petition pursuant to item C. above.

(E) The signature of the ~~p~~Property ~~o~~Owner.

(5) Petitions received by the Department or Designated Fee Administrator more than thirty (30) days from service upon him or her of a notice of the determination shall not be considered. If a petition will not be considered, the Department or Designated Fee Administrator shall notify the petitioner. However, the Department or Designated Fee Administrator may treat the untimely petitions as an administrative protest or claim for refund if the department determines that the facts presented indicate that the Fee originally determined may have been excessive or that the amount or the application of the Fee may have been the result of an error by the department, its agent, or the State Board of Equalization. Petitions filed pursuant to this section shall generally be reviewed in the same manner as a timely petition for redetermination.

(6) After receipt of a petition, the Department or the Designated Fee Administrator may request additional information from the ~~p~~Property ~~o~~Owner if, in their opinion, the information contained in the petition is incomplete.

(7) The petition may be amended to state additional grounds or provide additional documentation at any time prior to the date that the Department or the Designated Fee Administrator issues its decision on the petition.

(8) The petition shall be sent by the petitioner to the addresses indicated by the Department for sending to the Department~~, the Board of Forestry and Fire Protection, and the Board of Equalization~~; the Department's address may be the address of the Department's Designated Fee Administrator.

(9) The Department or its Designated Fee Administrator shall complete its review of the petition for redetermination within sixty (60) days.

(10) Based on its review of the petition for redetermination, the Department or its Designated Fee Administrator may decide if the Fee is valid and due in the amount of the original Fee, may modify the Fee, or may eliminate the Fee based on a determination that it should not apply to the ~~p~~Property ~~o~~Owner who filed the petition.

(11) The decision of the Department or its Designated Fee Administrator shall be in writing and shall indicate the reasons for the decision on the petition.

(12) If the decision modifies or eliminates the Fee, the Department or its Designated Fee Administrator shall make appropriate modifications to the next and subsequent lists of ~~p~~Property ~~o~~Owners and Fee amounts submitted to the State Board of Equalization.

(13) The decision on the petition for redetermination by the Department or its Designated Fee Administrator shall be served on the petitioner as described in ~~Section~~ PRC § 4226~~ of the Public Resources Code~~. On the same date, the Department or its Designated Fee Administrator shall notify the Board of Forestry and Fire Protection and the State Board of Equalization. The Department ~~will~~ shall maintain copies of decisions on all petitions for redetermination for use ~~of~~ by the Board of Forestry and Fire Protection and State Board of Equalization.

(14) The decision of the Department or its Designated Fee Administrator upon a petition for redetermination of the Fee shall become final thirty (30) days after service upon the petitioner of notice of the determination.

(15) If the Department or its Designated Fee Administrator determines that a ~~p~~Property ~~o~~Owner is entitled to a refund of all or part of the Fee paid pursuant to this chapter, the ~~p~~Property ~~o~~Owner, or the Department or Designated Fee Administrator on behalf of the ~~p~~Property ~~o~~Owner, shall make a claim to the State Board of Equalization pursuant to Chapter 5 (commencing with Section 55221) of Part 30 of Division 2 of the Revenue and Taxation Code.

Note: Authority cited: Sections 4111, 4212, 4213, 4214 and 4220, Public Resources Code. Reference: Sections 4220, 4220.1, 4221, 4222, 4222.5, 4223, 4224, 4225, 4226 and 4227, Public Resources Code.

§ 1665.6. Fee Structure.

(a) The Board of Forestry and Fire Protection has been directed by the Legislature to impose a Fee that will provide funding necessary for fire prevention activities.

(b) The Fee shall be one hundred-fifty-two dollars and thirty-three cents ($152.33) per ~~h~~Habitable ~~s~~Structure.

(c) Fees shall be deposited in the Fire Prevention Fund.

(d) On July 1, 2013 and, annually thereafter, at its June meeting prior to each subsequent July 1, the Board of Forestry and Fire Protection may ~~shall~~ adjust the Fee rate to reflect the percentage of change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as calculated by the United States Department of Commerce for the 12-month period in the third quarter of the prior calendar year, as reported by the Department of Finance.

Note: Authority cited: Sections 4111, 4212, 4213 and 4214, Public Resources Code. Reference: Sections 4210, 4211, 4212 and 4214, Public Resources Code.

§ 1665.7. Fee Exemptions.

(a) ~~Property o~~An O~~wners~~ of a ~~h~~Habitable ~~s~~Structure~~s~~ within a State Responsibility Area and also within the boundaries of a local agency that provides fire protection services shall receive a Fee reduction of thirty-five dollars ($35.00) per ~~h~~Habitable ~~s~~Structure.

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Note: Authority cited: Sections 4111, 4212 and 4213.1, Public Resources Code.

Reference: Sections 4117, 4125, 4127 and 4210 and 4213.1, Public Resources Code.

§ 1665.8. Grant Program.

(a) The Board of Forestry and Fire Protection shall administer a granting program funded from the Fees collected. Grants shall be awarded to organizations within counties in direct proportion to the Fees paid by individual ~~p~~Property ~~o~~Owners in that county.

(b) Grants awarded from the Fire Prevention Fund shall be awarded to local agencies, Fire Protection Districts, Fire Safe Councils, the California Conservation Corps, and other organizations accepted by the Board of Forestry and Fire Protection. Grants ~~will~~ shall only be awarded in those counties that are in compliance with the Board of Forestry and Fire Protection's fire safe regulations pursuant to 14 CCR ~~Section~~§ 1270~~,~~ et seq., as required by ~~pursuant to Public Resources Code~~ ~~Section~~ PRC § 4290.

Note: Authority cited: Sections 4111, 4212 and 4214, Public Resources Code.

Reference: Sections 4102, 4111, 4112, 4113, 4114, 4740 and 4741, Public Resources Code.

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