

**State of California
Office of Administrative Law**

In re:
Board of Forestry and Fire Protection

NOTICE OF WITHDRAWAL

Regulatory Action:

Government Code Section 11349.3(c)

Title 14, California Code of Regulations

OAL File No. 2011-1201-02 E

Adopt sections: 1665.1, 1665.2, 1665.3,
1665.4, 1665.5, 1665.6,
1665.7, 1665.8

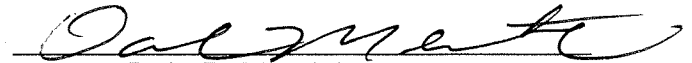
Amend sections:

Repeal sections:

This notice confirms that your proposed regulatory action regarding State Responsibility Area Fees, 2011 was withdrawn from Office of Administrative Law (OAL) review pursuant to Government Code section 11349.3(c). We will retain the rulemaking record you submitted in the event that you resubmit this regulatory action.

Please contact me at (916) 323-4237 or dmentink@oal.ca.gov, or the OAL Reference Attorney at (916)323-6815 or staff@oal.ca.gov, if you have any questions about the resubmittal process. You may request the return of your rulemaking record by contacting the OAL Front Desk at (916)323-6225.

Date: 12/12/2011



Dale P. Mentink
Senior Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: George Gentry
Copy: Eric Huff

EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS Z-	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2011-1201-02E
For use by Office of Administrative Law (OAL) only		2011 DEC -1 AM 11:48	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Board of Forestry and Fire Protection			AGENCY FILE NUMBER (if any)

OFFICE OF ADMINISTRATIVE LAW

WITHDRAWN

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 <input type="checkbox"/> Regulatory Action	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	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) State Responsibility Area Fees, 2011	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 14 CCR §§ 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
TITLE(S) 14	AMEND
	REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> 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) Pre-Notice mailed and emailed November 21, 2011.	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective 30th day after filing with Secretary of State <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) _____	
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 checked="" type="checkbox"/> Other (Specify) <u>Natural Resources Agency-STD 399</u>	
7. CONTACT PERSON Eric Huff, Regulations Coordinator	TELEPHONE NUMBER 916-653-6634
FAX NUMBER (Optional) 916-653-0989	E-MAIL ADDRESS (Optional) eric.huff@fire.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.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE December 1, 2011
TYPED NAME AND TITLE OF SIGNATORY George Gentry, Executive Officer	

For use by Office of Administrative Law (OAL) only

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-09) (REVERSE)

**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 1b. 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.

1 TITLE 14 - DEPARTMENT OF FORESTRY AND FIRE PROTECTION

2 CHAPTER 13 - STATE RESPONSIBILITY AREA FEES

3 [Emergency Regulation]

4 Adopt all new sections to 14 CCR CHAPTER 13 § 1665 as follows:

5
6
7 § 1665.1 Authority.

8 This chapter sets out procedures for implementation and
9 collection of "State Responsibility Area Fire Prevention Benefit
10 Fees" (hereafter referred to as "Benefit Fee"), as required by
11 Chapter 8, Statutes 2011.

12 Note: Authority cited: Sections 4210-4228, Public Resources Code.
13 Reference: Sections 4102, 4111, 4114, 4125, 4138 (a)-(h), and 4140
14 (a) of the Public Resources Code.

15 § 1665.2 Definitions

16 "Dwelling Unit", for purposes of this implementation of
17 Sections 4210-4228 of the Public Resources Code, is a unit
18 providing complete, independent living facilities for one or more
19 persons, including provisions for living, sleeping, eating,
20 cooking, and/or sanitation. Mobile and manufactured homes and
21 condominiums are considered as dwelling units.

22 "Habitable Structure", for purposes of implementation of
23 Sections 4210-4228 of the Public Resources Code, means a building
24 that contains one or more dwelling units or that can be occupied
25 for non-residential use which is utilized, intended, or designed to

1 be used, rented, leased, let, or hired out to be occupied for
2 living or non-residential purposes. Buildings occupied for
3 residential use include single family homes, multi-dwelling
4 structures, mobile and manufactured homes, and condominiums.
5 Buildings occupied for non-residential use include, but are not
6 limited to, office buildings, industrial property, stores,
7 warehouses, hotels, hospitals, medical centers, clinics, libraries,
8 museums, and government buildings, including jails. Habitable
9 structures do not include incidental buildings such as detached
10 garages, barns, outdoor sanitation facilities, and sheds.

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

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

15 "Multi-dwelling unit structure" is a building, other than
16 condominiums, that provides more than one dwelling unit that is
17 used, intended, or designed to be used, rented, leased, let, or
18 hired out to be occupied for living purposes."

19 "Property Owner", means that individual, company,
20 corporation, or other entity that holds title to said habitable
21 structure.

22 "State Responsibility Area" means those areas defined in
23 Section 4102 and delineated pursuant to Sections 4125-4128 of the
24 Public Resources Code. These lands are shown on digital maps
25 maintained by the California Department of Forestry and Fire

1 Protection at its Sacramento Headquarters and may be viewed there
2 or in low resolution at the California Department of Forestry and
3 Fire Protection website: http://www.bof.fire.ca.gov/sra_viewer/.

4 "Benefit Fee" means the fire prevention benefit fee imposed
5 pursuant to Sections 4210-4228 of the Public Resources Code.

6 "Fire Prevention Fund" means the fund established for deposit
7 of all annual Benefit Fees collected and from which expenditures
8 are authorized pursuant to the annual Budget Act that can be made,
9 including grants may be awarded pursuant to 14 CCR § 1665.8.

10 Note: Authority cited: Sections 4210-4228, Public Resources Code.
11 Reference: Sections 4111 of the Public Resources Code.

12
13 **§ 1665.3. Determination of Eligible Habitable Structure**

14 Determinations of eligible habitable structures and the
15 associated fees within State Responsibility Areas shall be
16 completed statewide by the Department or for the Department by its
17 "Designated Fee Administrator" pursuant to Public Resources Code
18 Section 4210 and 14 CCR §§ 1665.1-1665.8.

19
20 Note: Authority cited: Section 4210-4228, Public Resources Code.
21 Reference: Sections 4111 of the Public Resources Code.

22 **§ 1665.4. Imposition of the Benefit Fee**

23 The Benefit Fee will be imposed on all property owners with one
24 or more habitable structures within State Responsibility Areas as
25

1 defined in Public Resources Code Section 4102 and pursuant to
2 Public Resources Code Sections 4125-4128.

3
4 Note: Authority cited: Section 4210-4228, Public Resources Code.
5 Reference: Sections 4111 of the Public Resources Code.

6 **§ 1665.5. Request for Review and Refunds**

7 (a) A property owner from whom the Benefit Fee is determined
8 to be due under Public Resources Code Section 4213 et seq. may
9 petition the Department for a redetermination regarding the fee and
10 amount determined within 30 days after service upon him or her of a
11 notice of the determination.

12 (1)The Department may delegate the receipt and review of
13 petitions to a Designated Fee Administrator of its choice. The
14 Designated Fee Administrator must be qualified by experience of
15 preparing and administering benefit assessments, benefit fees and
16 special taxes for other jurisdictions, including fire districts.

17 (2)The petition may be filled out and submitted by a
18 property owner subject to the Benefit Fee or by the Department or
19 Designated Fee Administrator in consultation and on behalf of the
20 property owner.

21 (3)The petition shall be in writing on a form prepared by
22 the Department. In addition to administrative details, the form
23 shall require information that states the specific basis or grounds
24 upon which the petition is founded and includes supporting
25 documentation. The petition must be based on whether the fee as

1 specified in PRC 4213 et seq. applies to the specific property for
2 which the petition was filed. Examples of specific issues that may
3 be considered by the Department or Designated Fee Administrator
4 include, but are not limited to, the location of the structure in
5 SRA, determination of the number of applicable habitable structures
6 or the number of dwelling units in a multi-dwelling unit structure,
7 and the related fee amount calculated.

8 (4) Petitions received by the Department or Designated Fee
9 Administrator more than 30 days from the date of service of the
10 original notice of determination shall not be considered. If a
11 petition will not be considered, the Department or Designated Fee
12 Administrator shall notify the petitioner.

13 (5) After receipt of a petition, the Department or the
14 Designated Fee Administrator may request additional information
15 from the property owner if, in their opinion, the petition does not
16 give adequate information to permit full review of the fee and the
17 petition.

18 (6) The petition may be amended to state additional
19 grounds or provide additional documentation at any time prior to
20 the date that the Department or the Designated Fee Administrator
21 issues its order or decision with regard to the petition for
22 redetermination. The Department or the Designated Fee Administrator
23 will not accept additional information for a petition after it has
24 made a decision on the petition.

1 (7) The petition shall be sent by the petitioner to the
2 address indicated on the form by Department; this may be the
3 address of the Department's Designated Fee Administrator.

4 (8) The Department or its Designated Fee Administrator
5 shall complete its review of the petition for redetermination
6 within 60 days.

7 (9) Based on its review of the petition for
8 redetermination, the Department or its Designated Fee Administrator
9 may decide if the fee is valid and due in the amount of the
10 original fee, may modify the fee, or may eliminate the fee based
11 on a determination that it should not apply to the property owner
12 who filed the petition.

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

16 (11) If the decision modifies or eliminates the fee, the
17 Department or its Designated Fee Administrator shall make
18 appropriate modifications to the next and subsequent lists of
19 property owners and fee amounts submitted to the State Board of
20 Equalization.

21 (12) The decision on the petition for redetermination by
22 the Department or its Designated Fee Administrator shall be served
23 on the petitioner within 15 days of the date a decision is made.
24 Service shall be as described in Section 4226 of the Public
25 Resources Code. On the same date, the Department or its Designated

1 Fee Administrator shall notify the Board of Forestry and Fire
2 Protection and the State Board of Equalization. The Department
3 will maintain copies of decisions on all petitions for
4 redetermination petitions for use of the Board of Forestry and Fire
5 Protection and State Board of Equalization.

6 (13) The order or decision of the Department or its
7 Designated Fee Administrator upon a petition for redetermination of
8 the Benefit Fee shall become final 30 days after service upon the
9 petitioner of notice of the determination.

10 (14) If the Department or its Designated Fee
11 Administrator determines that a property owner is entitled to a
12 refund of all or part of the Benefit Fee paid pursuant to this
13 chapter, the property owner, or the Department or Designated Fee
14 Administrator on behalf of the property owner, shall make a claim
15 to the State Board of Equalization pursuant to Chapter 5
16 (commencing with Section 55221) of Part 30 of Division 2 of the
17 Revenue and Taxation Code.

18
19 **§ 1665.6. Fee Structure**

20 (a) The Board has been directed by the legislature to impose a
21 fee that will provide funding necessary for fire prevention
22 activities. Such activities shall be consistent with the "2010
23 Strategic Fire Plan for California" (hereafter referred to as "Fire
24 Plan") adopted by the Board, pursuant to PRC 4114, for
25 implementation in State Responsibility Areas.

1 (b) The Benefit Fee shall be one hundred-fifty dollars
2 (\$150.00) per habitable structure except as set forth in subsection
3 (c) below. The fee will be consistent with Section 3 of Article
4 XVIII A of the California Constitution.

5 (c) The Benefit Fee for multi-dwelling unit structures shall
6 be one hundred-fifty dollars (\$150.00) for the first dwelling unit
7 and an additional twenty-five dollars (\$25.00) for each additional
8 dwelling unit up to the total dwelling units contained in the
9 multi-dwelling unit structure.

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

11 (e) On July 1, 2013 and at its June meeting prior to each
12 subsequent July 1, the Board shall adjust the rate to reflect the
13 percentage of change in the average annual value of the Implicit
14 Price Deflator for State and Local Government Purchases of Goods
15 and Services for the United States, as calculated by the United
16 States Department of Commerce for the 12-month period in the third
17 quarter of the prior calendar year, as reported by the Department
18 of Finance.

19
20 **§ 1665.7. Fee exemptions**

21 Property owners of habitable structures within State
22 Responsibility Area and also within the boundaries of a local
23 agency that provides fire protection services may receive a
24 reduction of thirty-five dollars (\$35.00) per dwelling unit or
25 habitable structure.

1 § 1665.8. Grant Program

2 (a) The Board shall administer a granting program funded from
3 the Benefit Fees collected. Grants shall be awarded to
4 organizations within counties in direct proportion to the benefit
5 fee paid by individual property owners in that county.

6 (b) Grants awarded from the Fire Prevention Fund shall be
7 awarded to local agencies, Fire Protection Districts, Fire Safe
8 Councils, the California Conservation Corps, and other
9 organizations accepted by the Board to support the following
10 priorities listed in descending order.

11 (1) Development or updating of a Community Wildfire
12 Protection Plan (CWPP), local hazard mitigation plan, or
13 community-based wildfire hazard or risk analysis.

14 (2) Development of General Plan elements, including the
15 Safety Element, and "Fire Safe Regulations" to be certified by
16 the Board pursuant to Public Resources Code § 4290.

17 (3) Community fuel reduction projects in State
18 Responsibility Areas.

19 (4) Other community fire safety and fire prevention
20 projects, including fire prevention education, designed to
21 reduce the risk of wildfire in State Responsibility areas.

22
23 Note: Authority cited: Section 4139, Public Resources Code.
24 Reference: Sections 4102, 4111, 4114, 4138 (a)-(h), 4140 (a) of
25 the Public Resources Code, Section 53087.4 of the Government Code,
and Section 5097 of the Revenue and Taxation Code.