

BOARD OF FORESTRY AND FIRE PROTECTION

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December 8, 2014

Memo re: AB 2048 Exemption from SRA Fee for Structures made Uninhabitable due to Natural Disaster and Miscellaneous

To: BOF

From: Executive Officer

Background

One aspect of AB 2048 obligates the Board to prepare a form, so that owners of habitable structures that have been destroyed by natural disaster may request an exemption from the SRA fee.

4213.1.

(a) The fire prevention fee imposed pursuant to Section 4212 shall be levied upon the owner of a habitable structure identified by the department as located within the state responsibility area, if that person owns the habitable structure on July 1 of the year for which the fee is due.

(b) The board may exempt from the fire prevention fee any habitable structure that is subsequently deemed uninhabitable as a result of a natural disaster during the year for which the fee is due, as well as one subsequent year if the habitable structure has not been repaired or rebuilt. The board shall consider granting an exemption only if both of the following conditions are met:

(1) The owner of the habitable structure certifies that the structure is not habitable as a result of a natural disaster.

(2) The owner of the habitable structure either documents that the habitable structure passed a defensible space inspection conducted by the department or by one of its agents within one year of the date the structure was damaged or destroyed or certifies that clearance as required under Section 4291 was in place at the time that the structure was damaged or destroyed as a result of a natural disaster.

(c) The board shall prepare forms for purposes of the certification requirements in subdivision (b).

Rulemaking Strategy

All other changes, with the exception of the form, required by AB 2048 will be handled via a Section 100 process

The Office of Administrative law has concluded that because the statute specifically calls for the Board to **“prepare forms”** it will necessitate regular rulemaking.

If the Board authorizes publication of a 45 day notice at the **December 10th** meeting, then the hearing will likely take place on **March 4**.

There are only 48 days until the January meeting, and OAL requires a minimum 10 day window to review the regulation. This means the hearing will have to take place on March 4, as no meeting occurs in February in 2015. There will then be another period to finalize the regulation, and publication with the Secretary of State around mid-April. This will make the expected effective date **July 1st**.

First billings are targeted for **March 2**. To avoid the delay in getting these forms to the public, OAL has opined that the use of the Board's emergency authority to promulgate the regulation initially may be appropriate.

George Gentry
Executive Officer