

NON-SUBSTANTIVE

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-	2014-0107-01N	

ENDORSED FILED IN THE OFFICE OF

2014 FEB -6 PM 3:39

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2014 JAN -7 PM 3:11

OFFICE OF ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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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 <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Section 100 for annual SRA Fee adjustment per PRC §4212b.	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2012-1008-01 EE, 2012-0925-04, 2013-0122-03C
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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 § 1665.6(b)
	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 §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 checked="" 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 Resubmittal of disapproved or withdrawn nonemergency filing (Gov.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 Resubmittal of disapproved or withdrawn emergency filing (Gov.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 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 checked="" 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 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)	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 January 7, 2014
TYPED NAME AND TITLE OF SIGNATORY Eric Huff, Regulations Coordinator	

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ENDORSED APPROVED

FEB 06 2014

Office of Administrative Law

1 **Board of Forestry and Fire Protection**

2 **"SECTION 100 – SRA FEE ADJUSTMENT, 2014"**

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

4 **Division 1.5. Department of Forestry and Fire Protection, Chapter 13 –**

5 **State Responsibility Area Fees**

6
7 **Amend:**

8 **§ 1665.6. Fee Structure.**

9
10 **§ 1665.6. Fee Structure.**

11 (a) The Board has been directed by the Legislature to impose a Fee*****

12
13 ***** (b) The Fee shall be one hundred-fifty-two dollars and thirty-three cents

14 (~~\$150.00~~152.33) per habitable structure.*****

15
16 Note: Authority cited: Sections 4212, 4213 and 4214, Public Resources Code.

17 Reference: Sections 4210, 4211, 4212 and 4214, Public Resources Code.

18 **###**

PROPOSED CHANGE WITHOUT REGULATORY EFFECT

JUSTIFICATION STATEMENT PURSUANT TO 1 CCR § 100(b)(3)

The Board of Forestry and Fire Protection (Board) is requesting a change in the State Responsibility Area Fee (SRA Fee) amount specified in 14 CCR Section 1665.6(b). The current SRA Fee amount is one hundred-fifty dollars (\$150.00), as specified in the enacting statute and regulations. However, pursuant to the enacting statute, Public Resources Code (PRC) Section 4212(b) and the implementing regulation, 14 CCR Section 1665.6(d), the Board is required to annually adjust the fee amount. The Board accordingly anticipates filing Section 100 proposals for SRA Fee adjustment annually beginning with this initial filing. PRC Section 4212(b) states as follows:

On July 1, 2013, and annually thereafter, the board shall adjust the fire prevention fees imposed pursuant to this chapter 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.

The percentage of change in the average annual value of the Implicit Price Deflator was calculated by examining the difference between 3rd quarter values for 2011 and 2012, and dividing the difference by the 3rd quarter value for 2011. The SRA Fee adjustment amount is then found by multiplying the calculated percentage of change by the current SRA Fee amount. As indicated in the arithmetic below, the SRA Fee adjustment amount is two dollars and thirty-three cents (\$2.33). The resulting SRA Fee amount should therefore be increased to one hundred-fifty-two dollars and thirty-three cents (\$152.33):

3rd quarter 2012 = 126.61
3rd quarter 2011 = 124.68
Difference between 3rd quarter values for 2012 and 2011
= 1.93
1.93 divided by 124.68 = .0155 (percentage of change)
.0155 multiplied by \$150.00 (existing SRA Fee amount)
= \$2.33

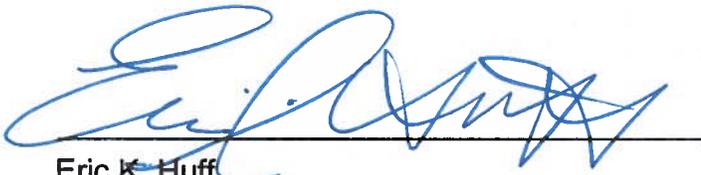
The proposed regulation text change to 14 CCR Section 1665.6(b) would reflect this adjustment by indicating the existing fee amount (\$150.00) in single strikethrough and the new fee amount in single underline as follows:

(b) The Fee shall be one hundred-fifty-two dollars and thirty-three cents (~~\$150.00~~152.33) per habitable structure.

The proposed SRA Fee adjustment is a change without regulatory effect as it is consistent with the specific expectations of the enacting SRA Fee statute and does not materially alter the requirements of the SRA Fee regulation.

Attached to this Justification Statement is a copy of a memorandum on the SRA Fee adjustment requirement circulated to Members of the Board of Forestry and Fire Protection, and an excerpt of the complete authorizing statutes for the SRA Fee collection program.

Questions or concerns regarding this Section 100 filing may be directed to Interim Regulations Coordinator, Eric Huff at 916-653-9633 or eric.huff@fire.ca.gov.



Eric K. Huff
Regulations Coordinator

Date: January 7, 2014

P.O. Box 944246
SACRAMENTO, CA 94244-2460
(916) 653-8007
(916) 653-0989 FAX
Website: www.bof.fire.ca.gov



Increase for SRA Fee- background

The Board is required to raise the SRA fee this year by statute and regulation. There is no choice in this, it is mandatory and no regulatory action is required.. Staff will implement this via Section 100. Below is a description of the action and analysis.

I. Public Resources Code

PRC dictates that the Board shall increase the fee beginning in 2013:

4212. (a) (1) By September 1, 2011, the board shall adopt emergency regulations to establish a fire prevention fee for the purposes of this chapter in an amount **not to exceed one hundred fifty dollars (\$150)** to be charged on each structure on a parcel that is within a state responsibility area.

(2) The Legislature finds and declares that a fire prevention fee **of not more than one hundred fifty dollars (\$150)** is a reasonable amount for the necessary fire prevention activities of the state that benefit the owner of a structure within a state responsibility area.

(b) **On July 1, 2013, and annually thereafter, the board shall adjust the fire prevention fees imposed pursuant to this chapter** 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.

II. Title 14 CCR

Our regulations repeat this in more or less verbatim language:

§ 1665.6. Fee Structure.

(a) The Board 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 dollars (\$150.00) per habitable structure.**

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



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(d) On July 1, 2013 and at its June meeting prior to each subsequent July 1, the Board **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.

III. Office of Administrative Law

Questions to OAL:

“The fee structure specified in the SRA Fee statutes and regulations is set at a maximum of \$150.00, but this maximum must also be adjusted annually “to reflect the percentage of change in the average annual value of the Implicit Price Deflator” (please refer to attached statutes and Title 14 regulations).

1. Does the Board have to adopt the annual adjustment under the regular rulemaking process, thereby requiring an SRA Fee rule proposal every year?
2. Or, is it implied in both the statute and regulation that the fee amount will be adjusted such that annual rulemaking is not required?
3. Do the \$150 maximum and the annual adjustment requirements of the statute conflict with one another—or is it understood that the fee amount will be adjusted to reflect the \$150 maximum in future dollar values?”

OAL Response:

“In answer to questions 1 and 2, we typically see fees that are statutorily required to be adjusted by some sort of index—here, the percentage of change in the average annual value of the Implicit Price Deflator—submitted as Section 100 actions. (See 1 CCR sec. 100.) This means you can make the change to the CCR text without going through a regular rulemaking action, provided you satisfy the Section 100 requirements. This type of action usually falls under an analysis similar to Section 100(b)(6). In your Section 100 statement, you would want to cite PRC sec. 4212(b) and 14 CCR sec. 1665.6(d), show what the multiplier is that reflects the percentage of change in the average annual value of the Implicit Price Deflator based on the statute and regulation, and show with



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underlining and strikeout the change to the annual fee in Section 1665.6 that reflects the multiplier.

In answer to question 3, I do not see a conflict. The statute allows for the exceedance of the \$150 maximum by the annual adjustment. The \$150 maximum would only apply to the establishing the first annual fee which, in this case, was \$150 in Section 1665.6.”

IV. Calculation of change

“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”

3rd quarter 2012- 126.61

3rd quarter 2011- 124.68

Difference- 1.93

$1.93/124.68 = .0155$

$.0155 \times 150.00 = \$2.33$

New Fee= \$152.33