



**Resource Protection Committee
Regulatory Development
for the
State Responsibility Area Fire Prevention Fund Grant Program
June 16, 2015**

- IDENTIFY THE PROBLEM.

The state has the primary financial responsibility for preventing and suppressing wildfires in lands classified as State Responsibility Area (SRA). Community development amongst and adjacent to wildland fuels has increased the complexity and costs of suppressing wildfires in the SRA. Current fire prevention efforts are not being conducted at an adequate scale to reduce the risks of wildfire impacts to communities in the SRA. PRC § 4214 authorizes the Board of Forestry and Fire Protection (Board) to develop a local assistance grant program to provide State Responsibility Area Fire Prevention Fund (SRAFPF) monies to outside organizations conducting fire prevention activities in the SRA. The statute does not include sufficient detail to implement this grant program without further regulatory development by the Board. The statute leaves the Board discretion in adopting standards for eligible organizations, the types of projects eligible for funding, the requirements of the application process, the evaluation criteria for receiving project funding, and measuring proportional distribution of grant funding to the fee paying communities.

- GATHERING RELEVANT LEGAL INFORMATION.

Authority: Sections 713, 740, and 4111 of the Public Resources Code.

Reference: Sections 4214, 4740 and 4741 of the Public Resources Code.

- GATHERING RELEVANT FACTUAL INFORMATION.

PRC § 4214 grants authority to the Board of Forestry and Fire Protection to establish a local assistance grant program for fire prevention activities designed to benefit structures within the SRA.

Staff reviewed the requirements of numerous other grant programs that cause similar work as that which would be caused by the proposed SRAFPF Grant Program. These included: the California Forest Improvement Program (CFIP), Proposition 40 fuel reduction grants, and the Urban Forestry Grant Program administered by CAL FIRE; the Environmental Quality Incentives Program (EQIP) administered by the Natural Resources Conservation Service (NRCS); the Proposition 84 Grant Program administered by the Sierra Nevada Conservancy; and the Fire Prevention Grants for Non-Federal Lands administered by the California Fire Safe Council.

The proposed regulations were first introduced to the Board's Resource Protection Committee (RPC) in June of 2014. The RPC has held numerous



public meetings and has actively sought, and received, stakeholder input during the development of this proposed regulation.

- DRAFT THE PROPOSED TEXT OF THE REGULATION.

14 CCR § 1665.8

§ 1665.8. State Responsibility Area Fire Prevention Fund 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 Property 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 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 § 1270 et seq., as required by PRC § 4290.~~

(a) When funds are appropriated by the Legislature for this purpose, the Board shall administer the State Responsibility Area Fire Prevention Fund Grant Program from the Fees collected. Grants shall be awarded to organizations providing fire prevention activities, including, but not limited to those specified below, that benefit the owners of structures within the State Responsibility Area (SRA).

(1) Public education, including defensible space education, to reduce fire risk in the SRA.

(2) Creation, administration, monitoring and updating of strategic wildfire planning documents, such as a Community Wildfire Protection Plan (CWPP) or a County Fire Plan.

(3) Hazardous fuel reduction projects using manual, mechanical, prescribed fire, herbivory, or herbicide treatments to meet at least one of the following objectives:

(A) Create or maintain fuelbreaks.

(B) Remove ladder fuels and thin crown fuels to reduce the risk of crown fires and the production of flying embers that can cause spot fires during wildfire activity.

(C) Reduce fuel loading in strategic locations to reduce wildfire intensity and rate of spread.

(D) Community level fire prevention programs such as community chipping days, roadside chipping, and green waste bin programs.

(E) Modify vegetation adjacent to roads to provide for safer ingress and egress of evacuating residents and responding emergency personnel during wildfire activities.

(F) Reduce fuel loading around critical community infrastructure, including, but not limited to, domestic and municipal water supplies, powerlines, and communications facilities.

(4) Other activities designed to reduce fire risk to structures in the SRA. These will need to explain the projects' wildfire risk reduction benefit to structures within the SRA.

(b) Grants shall be distributed commensurate with the amount of Fees collected from the owners of structures within the SRA. In order to allow for strategic, large projects to occur, proportional distribution of funds will be measured over the following spatial and temporal scales.

(1) The Cal Fire Unit/Contract County shall act as the geographic boundaries when accounting for fire prevention fees received and project expenditures.

(2) Expenditures over a 7 year period from this Grant program in any Cal Fire Unit/Contract County will be proportional to the amount of fees collected from that Cal Fire Unit/Contract



County, and the amount appropriated by the Legislature for these purposes.

(3) Funding will be determined to have been distributed proportionally if it is within 10% of the calculated benefit amount determined in subsection (2) above.

(c) Grants will only be awarded in Counties that contain SRA. The following organizations shall be eligible to participate in Fire Prevention Fund Grant Program specified above.

(1) Counties.

(2) Local Agencies or Special Districts, such as Fire Protection Districts or Resource Conservation Districts.

(3) Fire Safe Councils

(4) The California Conservation Corps or other certified local conservation corps.

(5) Qualified non-profit organizations with a demonstrated ability to satisfactorily plan, implement, and complete the proposed fire prevention project.

(d) Grant applications shall be submitted on those forms designated in the State Responsibility Area Fire Prevention Fund Grant Program Procedural Guide as adopted by the Board on XX/XX/2015 and incorporated herein by reference. Projects proposing fuel reduction shall be required to submit an 8½ by 11 inch map of the project area with a map legend and scale. Projects shall be evaluated and grants shall be awarded based solely on information required to be included with the application.

- **ALTERNATIVES.**

Alternative 1: No Action Alternative.

The Board could decide not to adopt regulations to implement the SRAFPF Grant Program. This would rely on alternative funding sources to continue the existing level of fire prevention projects occurring in the SRA. SRAFPF funds would continue to be available to CAL FIRE to perform fire prevention activities in the SRA, but would not be made available to external organizations from which the Fire Prevention Fees were collected for fire prevention projects.

Alternative 2: Simplified Application Process

To reduce the amount of time and effort put forward by project proponents to apply for SRAFPF Grants, the Board could choose to adopt a simplified application process. The proposed application requires an applicant to fill out a concept proposal, scope of work, and budget worksheet to be considered for a grant award. The level of detail required in each of these could be reduced or the any of these documents could be removed from the application process.

Alternative 3: Direct Distribution of Funds to Counties

The SRAFPF funding appropriated each year by the legislature could be directly distributed to county governments containing SRA lands proportional to the percent of all SRAFPF funds collected from each county's jurisdiction. The county would then be responsible for identifying and funding fire prevention projects in accordance with the limitations provided for in PRC § 4214 and any additional requirements promulgated through regulation of the Board.



- DETERMINE PURPOSE AND DEMONSTRATE THE NECESSITY FOR THE DRAFTED REGULATIONS.

BENEFITS

The SRAFPF Grant Program will return monies collected from the SRA Fees to local organizations performing fire prevention activities in the fee paying communities. Current funding sources are inadequate to meet the needs of communities for fire prevention education, fire prevention planning, and hazardous fuel reduction projects. Implementation of this grant program will help meet this need. This regulation is also expected to benefit the state and SRA communities through reduction of the number of fire starts, reduced fire intensity and rate of spread, and reduced risk of wildfire damage to structures in the project areas.

PURPOSE

The purpose of the proposed regulations is to make clear to the regulated public the eligibility standards, application requirements and evaluation criteria for applying for and receiving grants from the SRAFPF Grant Program.

Section 1665.8(a): To specify the types of projects that will be eligible for funding through the SRAFPF Grant Program.

Section 1665.8(b): PRC 4214 requires that SRAFPF Grants be distributed back to the fee paying communities commensurate with the amount of fees collected from those communities. This section establishes the temporal and geographic boundaries over which that commensurate distribution will be evaluated.

Section 1665.8(c): To establish organizations that are eligible to apply for a SRAFPF Grant.

Section 1665(d): To establish the required information for grant applicants to submit and the evaluation criteria by which applications will be judged. This section incorporates by reference the specific forms on which material will be submitted.

Necessity

Section 1665.8(a)(1): Most wildland fires are human caused. Public education of residents in the SRA is important to reduce the number of human caused fire starts. Creating and maintaining defensible space around structures is the most important activity that residents in the SRA can do to reduce their risk to wildland fire damage.

Section 1665.8(a)(2): Through wildfire planning communities take a comprehensive look at their vulnerabilities to impacts from wildland fires and identify steps to mitigate them. Community Wildfire Protection Plans and County Fire Plans were identified as examples because they cover relatively large areas and identify specific actions to be carried out to mitigate any identified vulnerabilities. The creation and maintenance of these planning documents helps prioritize the education and hazardous fuel reduction projects that will provide the greatest risk reduction to a county or community. Administration and monitoring of these planning documents was added as a result of



public comment during development of this regulation. The Board determined these components were important in carrying out the actions proposed in the plan, and making sure that the actions had their intended effects.

Section 1665.8(a)(3): These provisions provide examples of hazardous fuel reduction projects that the Board is intending to cause as a result of this program. The Board determined that projects of a similar nature to these examples provided would meet the intended wildfire risk reduction objective of this program.

Section 1665.8(a)(4): This provision is included to allow grant applicants to request funding for a project not included in subsections 1-3 above, provided they can explain the wildfire risk reduction benefits. This provides a performance standard to not preclude the funding of projects that would provide similar, or better, wildfire risk reduction than those projects identified in subsections 1-3.

Section 1665.8(b): This identifies the evaluation criteria for determining if grants are awarded commensurate with the amount of fees collected. The CAL FIRE Unit/Contract County was chosen as the geographic boundary because grants will be managed by Unit/Contract County personnel. These areas are large enough that each will have enough grant funding to conduct meaningful projects, but not so large as to allow for grant funding to concentrate in any specific area of the state. CAL FIRE has 21 Units and six Contract Counties.

The time period for this evaluation was increased from five to seven years with input from CAL FIRE during the development of this regulation. The Board determined that the longer time period would allow flexibility to shift funding across funding cycles when large high value projects are proposed. This would allow a CAL FIRE Unit/Contract County to accumulate credit in years with few or poor quality projects to be used in future years. Or, alternatively, Units/Contract Counties can pay off a deficit assumed to fund a large project by accepting a lower level of funding in future years. The proportion of fees collected from a CAL FIRE Unit/Contract County and the amount of funds appropriated by the Legislature each year are necessary to determine the proportional funding amount to be distributed to grants in each Unit/Contract County in any given funding year.

The allowance to fall within 10% of the actual value of total grant funding in a Unit/Contract County over a seven year period is included to recognize that the grant requests in any given funding year are unlikely to exactly match up with the funds available for distribution. There may also be the case that no projects are submitted for funding, or no projects are eligible for funding in a given funding year. The level of appropriation from the legislature is also expected to fluctuate yearly. Given all these uncertainties in the grant process, the Board wanted to include some flexibility in how money is distributed throughout the state in each funding year while still striving to meet the goal of proportional distribution of grant funds back to the fee paying communities.

DOCUMENTS RELIED UPON

Identify each technical, theoretical, empirical study, report, or similar document, if any, the agency is relying upon to support the necessity for the regulation. Sometimes an explanatory statement will itself be adequate. Other times the



statement or one or more of its parts will have to be demonstrated by the use of studies, reports, documents or other material relied upon by the agency. The bottom line is that the rulemaking record must contain substantial evidence to demonstrate that the regulation is reasonably necessary to effectuate the purposes of the statute(s) or other provisions of law the regulation implements, interprets or makes specific, AND address the problem the agency intends to address.

- ANALYZE THE FISCAL /ECONOMIC EFFECTS OF THE REGULATION.

Economic Impact Assessment (EIA): Except for major regulations (discussed above), the agency must prepare an Economic Impact Analysis/Assessment (BIA) that analyzes whether and to what extent the regulation will affect:

- the creation or elimination of jobs within the State of California,
- the creation of new businesses or the elimination of existing businesses within the State of California,
- the expansion of businesses currently doing business within the State of California, and
- the benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

This assessment must be based upon adequate information concerning the consequences of the proposed regulation. (See Gov. Code, § 11346.3, subd. (e)). In other words, the BIA must contain sufficient information to explain how the agency reached the stated results.

Cost Impacts On Representative Person or Business: Describe the cost impacts known to the agency that a representative private person or business would incur to comply with the proposed regulation. This is "the amount of reasonable range of direct costs, or a description of the type and extent of direct costs, that a representative private person or business necessarily incurs in reasonable compliance with the proposed action." (Gov. Code, §

Reporting Requirement: Determine whether the proposed regulation establishes a reporting requirement that applies to business. If a reporting requirement created by the regulation does apply to business, your agency must include a finding the NOPA that the requirement "is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses."

Warning: If you do not include this finding, the reporting requirement does not apply to business. (Gov. Code, § 11346.3 subd. (d))



Effects on Small Business: Determine whether the selected alternative affects small business using the definition of "small business" in the APA at section Government Code section 11342.610. If you decide the selected alternative does not affect small business, prepare a brief explanation of the reasons for that decision. (1CCR 4)

- **ADDITIONAL CONSIDERATIONS.**

Consistency With Existing State Regulations: The agency must evaluate whether the proposed regulation is inconsistent or incompatible with existing state regulations. (Gov. Code, § 11346.5, subd. (a)(3)(D))

Federal Conformity: Determine whether the proposed regulation differs substantially from an existing comparable federal regulation or statute. If it does, draft a brief description of the significant differences and identify the full citation of the federal regulations or statutes. This information will be used when drafting the NOPA. (Gov. Code, § 11346.5, subd. (a)(3)(B))

Identical to Existing Federal Regulation: Determine whether the proposed regulation is identical to previously adopted /amended federal regulation. If so, then include a statement to that effect in the NOPA along with a citation to where an explanation of the provisions of the regulation can be found. If applicable, this is sufficient to satisfy the ISOR and FSOR requirements. (Gov. Code §§ 11346.2, subd. (c) and 11346.9, subd. (c))

Efforts to Avoid Duplication or Conflict with Federal Regulations: This evaluation applies only to a department, board, or commission within the Environmental Protection Agency, the Natural Resources Agency, or the Office of the State Fire Marshal. Draft a description of your efforts to avoid unnecessary duplication or conflict with federal regulations addressing the same issues. You may adopt differing regulations "upon a finding of one or more of the following justifications:

a) The differing state regulations are authorized by law; or b) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment. This evaluation must be made available to the public. (Gov. Code, § 11346.2, subd. (b)(6))