

**Board of Forestry and Fire Protection**

**NOTICE OF PROPOSED ACTION**

**“SRA Fire Prevention Fund Grant Program”**

**Title 14 of the California Code of Regulations (14 CCR):  
Division 1.5, Chapter 13  
Repeal § 1665.8  
Adopt §§ 1666.0-1666.16**

[Notice Published **March 18, 2016**]

**NATURE OF PROCEEDING**

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

**PUBLIC HEARING**

The Board will hold a public hearing on Thursday, May 12, 2016 at its regularly scheduled meeting commencing at 9:00 a.m., at the Bahia Hotel, 998 W. Mission Bay Drive, San Diego, California 92109 in Room Bahia Belle 1. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M. on Monday, May 2, 2016.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Edith Hannigan  
Board Analyst  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9<sup>th</sup> Street  
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

publiccomments@BOF.ca.gov

**AUTHORITY AND REFERENCE (pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14) 14 CCR §§ 1666.0 to 1666.16** Note: Authority cited: Sections 4111, 4212, and 4214, Public Resources Code. Reference: Sections 4102, 4112, 4113, 4114, 4740 and 4741, Public Resources Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW (pursuant to 11346.5(a)(3)(A)-(D))**

The California Governor signed ABx1 29 (PRC § 4210, et seq.) into law on July 7, 2011. This law levied a fire prevention fee (Fee) on the owners of habitable structures within the State Responsibility Area (SRA) to fund fire prevention activities. One of the specified activities for that Fee is to provide grants to eligible organizations to perform fire prevention projects that reduce the risk and potential impact of wildfire to habitable structures in the SRA. Public Resources Code (PRC) § 4210 et seq requires that money deposited into the SRA Fire Prevention Fund (SRAFPF) be distributed back to their communities of origin proportional to how they were collected.

Pursuant to PRC § 4214(e), the Board adopted 14 CCR 1665.8 in 2012 by the use of Emergency rulemaking. This Emergency regulation was readopted twice in 2012 and a Certificate of Compliance was filed in October 2012, making the regulation permanent. Changes without regulatory effect were filed in 2015.

The purpose of the proposed action is to repeal 14 CCR § 1665.8 because it is too vague and broad to properly administer a grant program and it does not provide the public with any useful information regarding applying for the grant program. §§ 1666.0 through 1666.16 provide unambiguous and transparent information about applicant eligibility, the application process and requirements, and the application evaluation criteria. The proposed action creates a grant program to distribute Fee funds appropriated by the Legislature to their communities of origin for fire prevention activities designed to benefit habitable structures within SRA provided by counties and other local agencies, including special districts, with state responsibility areas within their jurisdictions.

The effect of the proposed action is the establishment of a grant program, including applicant requirements, eligible entities, and application evaluation criteria, to distribute grants from the SRA Fire Prevention Fund. The primary benefit of the proposed action is the ability to fund local fire prevention activities that reduce the effects of fire in the state's wildlands and watersheds on habitable structures within the SRA.

There is no comparable federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. Board staff assessed existing State regulations related to the grant program previously developed pursuant to PRC § 4214(e) and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

#### **MANDATED BY FEDERAL LAW OR REGULATIONS**

The proposed action is not mandated by federal law or regulations.

The proposed action neither conflicts with, nor duplicates Federal regulations.

There are no comparable Federal regulations for a statewide wildfire prevention grant program based on the Fee collected from owners of habitable structures in the SRA. No existing Federal regulations that met the same purpose as the proposed action were identified.

#### **OTHER STATUTORY REQUIREMENTS (pursuant to GOV § 11346.5(a)(4))**

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

#### **LOCAL MANDATE (pursuant to GOV § 11346.5(a)(5)).**

The proposed action does not impose a mandate on local agencies or school districts.

#### **FISCAL IMPACT (pursuant to GOV § 11346.5(a)(6))**

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Regarding costs or savings to any State agency, the anticipated fiscal impact of the SRAFPF Grant Program is expected to be approximately \$250,000 per year. In their 2014/2015 appropriation, the Legislature set aside \$500,000 to cover CAL FIRE's implementation costs of the grant program for two years. It is estimated that the fiscal impact to the State from the Board's grant program would also be approximately \$250,000 a year. It is expected the Legislature will again appropriate money for the implementation of the SRAFPF Grant Program as part of the appropriation of grant funds sourced from the Fee.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in federal funding to the State.

**HOUSING COSTS (pursuant to GOV § 11346.5(a)(12))**

The proposed action will not significantly affect housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE (pursuant to GOV §§ 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Businesses may be beneficially impacted by the proposed action in the short term.

Pursuant to **GOV §11346.5(a)(8)**, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support this initial determination:

- Contemplation by the Board of the economic impact of the provisions of the proposed action through an examination of the costs borne by applicants to CAL FIRE's 2014/15 and 2015/16 SRAFPF Grant Program.
- Additional outreach performed in 2015 and 2016 to prior successful grant applicants to assess costs borne in complying with the reporting requirements of the CAL FIRE grants.
- The limited scope of allowable administrative costs (indirect costs), the cap on grant requests, and the restricted time period for using any awarded grant funding will not create any sustainable economic activity that will create or eliminate jobs within California or create or eliminate businesses in California.

**STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)**

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)-(D)**. The proposed action:

- (A) will not create or eliminate jobs within California;
- (B) will not create or eliminate new businesses within California;
- (C) will affect the expansion of businesses currently doing business within California.
- (C) will not affect the contraction of businesses currently doing business within California.
- (D) will yield nonmonetary benefits including the improved awareness the local wildfire risk as a result of planning and education projects.

**COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS (pursuant to GOV § 11346.5(a)(9))**

There are no cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action, because private persons are ineligible grant recipients under the proposed program.

A representative business can expect to incur approximately \$1,500 in costs to apply for the grant program. Other costs can be recouped in the proposed grant budget. Long-term costs to store files for potential audits are expected to be minimal.

**BUSINESS REPORT (pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))**

The proposed action imposes a business reporting requirement on small businesses that have been awarded a grant. These costs are expected to be \$2,500/year over the life of the grant and, after the grant has terminated, file storage costs are expected to be minimal. Some of these costs, incurred over the life of the grant, can be recouped as part of the administrative costs (indirect costs) provided in the grant budget.

**SMALL BUSINESS (pursuant to 1 CCR 4(a) and (b))**

Small business, within the meaning of GOV § 11342.610, are not expected to be affected by the proposed action.

Small business:

- (1) Is not eligible to apply for this grant program;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) Does not incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

**ALTERNATIVES INFORMATION**

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private

persons and equally effective in implementing the statutory policy or other provision of law.

### **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Edith Hannigan  
Board Analyst  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-8007

The designated backup person in the event Ms. Edith Hannigan is not available is Mr. Matt Dias, Acting Executive Officer for the Board of Forestry and Fire Protection. Mr. Matt Dias may be contacted at the above address or by phone at (916) 653-8007.

### **AVAILABILITY STATEMENTS (pursuant to GOV § 11346.5(a)(16))**

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)** and **GOV § 11346.2(a)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **FINAL STATEMENT OF REASONS**

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

**INTERNET ACCESS**

All of the material referenced in the Availability Statements is also available on the Board web site at:

[http://bofdata.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/)