

Board of Forestry and Fire Protection

FINAL STATEMENT OF REASONS (FSOR), pursuant to GOV §11346.9(a)

“SRA Fire Prevention Fund Grant Program”

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

UPDATE OF INFORMATION CONTAINED IN ISOR (pursuant to GOV §11346.9(a)(1))

No information contained in the ISOR requires update. All material relied upon was identified in the ISOR and made available for public review prior to the close of the public comment period.

SUMMARY OF BOARD’S MODIFICATIONS TO 45-DAY NOTICED RULE TEXT AND INFORMATION REQUIRED PURSUANT TO GOV §11346.2(b)(1)) (pursuant to GOV §11346.9(a)(1))

The rule text was adopted in its 45-Day noticed form with the exception of the modification listed below. No opposition to these modifications was raised by Board members or public hearing participants.

Modification to 45-day noticed rule text:

§ 1665.2 Definitions

[...]

“Fire Prevention Fund” means the State Responsibility Area Fire Prevention Fund created by PRC § 4214 for deposit of all annual Fees collected and from which expenditures are authorized pursuant to the annual Budget Act, including grants that may be awarded pursuant to 14 CCR ~~§ 1665.8~~ §§ 1666.0-1666.16, inclusive.

[...]

Note: Authority cited: Sections 4111, 4211, 4212 and 4214, Public Resources Code. Reference: Sections 4102, 4125, 4210 and 4211, Public Resources Code; and Sections 18007(a) and 18008(a), Health and Safety Code.

REITERATION OF DISCLOSURES REGARDING THE ADOPTED REGULATION, RESULTS OF ECONOMIC IMPACT ANALYSIS, AND ANTICIPATED BENEFITS

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 adopted 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 to the environment, public health and safety,

including the improved awareness of the local wildfire risk as a result of planning and education projects.

The Board has determined that adoption of the regulations identified herein will not have a significant adverse statewide economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states (pursuant to GOV §11346.3(a)(2)).

Mandate on local agencies and school districts (pursuant to GOV §11346.9(a)(2)):

The adopted regulation does not impose a mandate on local agencies or school districts.

Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code sections commencing with GOV §17500 (pursuant to GOV §11346.9(a)(2)):

The adopted regulation does not impose a reimbursable cost to any local agency or school district.

ALTERNATIVES DETERMINATION (pursuant to GOV §11346.9(a)(4) and (5))

No alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FINDINGS (BASED ON INFORMATION, FACTS, EVIDENCE AND EXPERT OPINION) TO SUPPORT THE ALTERNATIVES DETERMINATION

- The Board finds the adopted alternative fulfills the obligations of the Board, specified in statute, and represents a product based upon compromise and the greatest degree of consensus achievable at the time the Board adopted the rules.
- The Board finds Public and Agency representatives reviewed and provided input into the rules the Board adopted.
- The Board finds the adopted rules strike a balance between performance based and prescriptive standards.
- The Board finds that a minimum level of prescriptive standards were needed to implement the statute.
- The Board finds the growing number of people moving into forested areas (the wildland urban interface) increases the risk of fires, places more lives and property in danger, and complicates efforts to restore periodic low-severity fire to the ecosystem, which is an integral part of most California landscapes.
- The Board finds that state law requires the Board to administer a local assistance grant program designed to benefit habitable structures in the state

responsibility area by funding fire prevention activities, including public education.

- The Board finds appropriate fuel modification can:
 - Reduce the risk of fire to forested landscapes.
 - Reduce large, damaging wildfires.
 - Decrease losses of homes, structures, and infrastructure due to wildfire.
 - Enhance firefighter safety.
 - Increase public safety.
 - Increase the efficiency of fire suppression operations relating to how, when, and where firefighting assets are deployed.
 - Reduce the cost of fire suppression.
 - Improve forest health.
- The Board finds that fuel reduction projects, fire prevention planning, and fire prevention education encompass the effective fire prevention activities that may benefit habitable structures in the state responsibility area.
- The Board finds the proposed action balances requiring applicants to submit enough information for application reviewers to make a sound judgment regarding the worthiness of applications, while keeping the basic requirements to apply for a grant under this program conveyed as clearly, straightforwardly, and made as readily attainable as possible without undue time, cost, or regulatory burdens upon the public.
- The Board finds the proposed grant program effectively solicits and evaluates fire prevention activities that will benefit habitable structures in the state responsibility area.

BOARD'S ADOPTED ALTERNATIVE (update, pursuant to GOV §11346.9(a)(1)), of information pursuant to GOV §11346.2(b)(4): Take Action as Proposed and Modified through the Formal Public Review and Comment Process (Alternative #4)

The Board chose to adopt the rule text as presented in the 45-Day Notice. Modifications were proposed through the formal public review and comment process but none resulted in changes by the Board.

This alternative results in repealing the existing grant program in 14 CCR § 1665.8 and replacing it with the detailed grant eligibility, application, and evaluation criteria proposed in 14 CCR §§1666.0-1666.16. The proposed action balances requiring applicants to submit enough information for application reviewers to make a sound judgment regarding the worthiness of applications, while keeping the basic requirements to apply for a grant under this program conveyed as clearly, straightforwardly, and made as readily attainable as possible without undue time, cost, or regulatory burdens upon the public.

BRIEF SYNOPSIS OF ADDITIONAL ALTERNATIVES CONSIDERED AND REJECTED (update, pursuant to GOV §11346.9(a)(1)), of information pursuant to GOV §11346.2(b)(4))

Alternative 1: No Action Alternative

The Board considered taking no action, since 14 CCR § 1665.8 Grant Program technically implements PRC § 4214. With that existing regulation, the Board could have chosen to create a guidance document with the specific application instructions and evaluation criteria instead of repealing that regulation and adopting new ones as in this proposed action. However, the Board and Board staff were concerned this alternative would result in an underground regulation and rejected this alternative.

Alternative 2: One-Phase Process

The Board considered an application process that did not include a Concept Proposal phase and a separate Application phase and instead only required an Application. At the time this regulation was being developed, CAL FIRE was implementing a SRAFPF Grant Program with two phases, as proposed in this action, and the Board thought it was in this program's best interest to mimic that process to reduce confusion amongst the public.

Alternative 3: Less Specific

The Board considered grant application questions and evaluation criteria that were less specific, including one series of questions and criteria for all types of projects (hazardous fuel reduction, fire prevention planning, and fire prevention education), no or limited map requirements, and less budget information. The Board rejected this alternative because of concerns it would lead to evaluation criteria that inadvertently favored one type of project over another and that grant reviewers would not receive enough information from the Concept Proposals and Applications to adequately judge the strength of each project against one another.

SUMMARY AND RESPONSE TO COMMENTS (pursuant to GOV 11346.9(a)(3))

WRITTEN COMMENTS AND RESPONSES RESULTING FROM 45-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED MARCH 18, 2016

Comment L1-1: Mike Callaghan, Council Chair, Plumas County Fire Safe Council

First as we experience the wind down of Federal Secure Rural Schools and Communities Title III funds, we are concerned that future SRA grants be available to support the cost of fire safe council coordination. Without coordination it will become difficult or impossible to sustain our mission. Under section 1666.5 on "Qualifying Projects", we find no provisions that specifically support grants for this purpose.

Board Response:

The utilization of SRA Fire Prevention Fund grant money to support the work of fire safe council coordinators was discussed at Resource Protection Committee meetings throughout 2015 while this regulation was under development. The Board supports the work of local fire safe councils and recognizes the vital role they play in promoting fire safety education and awareness and implementing projects to reduce wildfire risk throughout the state, in LRA, SRA, and FRA. As the fire protection community is well aware, fires do not respect jurisdictional boundaries humans have created across the landscape. Fire safe councils and their coordinators regularly implement vital projects

that cross these boundaries to provide the greatest level of fire prevention to their community

However, the enabling legislation for this grant program directs the Board to support projects that directly benefit the SRA and the SRA fee payers, and since fire safe council implement projects in the LRA and SRA, at this time funds from this grant program cannot be used to fully fund fire safe council coordinator salaries. Unfortunately the structure of the law does not recognize the messy overlaps that exist in the real world. The proposed regulation does allow grant applicants to recoup the costs of fire safe council coordinator salaries in “Administrative Costs” (§ 1666.1, 45-day noticed rule text, page 3 line 10), as well as in “Direct Costs” if the fire safe council coordinator is working directly on the proposed project (§ 1666.1, page 4 line 19). See also “Eligible Costs,” § 1666.15, page 28 lines 23-25, page 29 line 1. The Board believes this compromise balances the urgent need to fund fire safe council coordinators’ salaries and benefits while also adhering to the Legislature’s intent that SRA Fire Prevention Fund moneys directly benefit the SRA.

Should the terms of the grant program be changed by the Legislature, the Board would be pleased to revisit this topic.

Rule Text Edit: No

Comment L1-2: Mike Callaghan, Council Chair, Plumas County Fire Safe Council Second, draft section 1666.2 on “Grant Distribution” seeks to insure a geographic distribution of grant funds that is proportional to the number of SRA rate payers. We strongly support this goal. However, we do not understand why the draft regulations seek to achieve this on the scale of CAL FIRE units and not by County. The stated rationale is that most CAL FIRE reporting is already done on a by unit basis, and that it would add to the administrative workload to track grant benefits for 58 Counties vs. 26 CAL FIRE units. In Plumas County, and we assume in most other Counties, these SRA grant projects are carried out by organizations that have either very local objectives, or at the most a county-wide perspective. The table below illustrates the issue and the concern within our local CAL FIRE unit:

County	Habitable Structures (%)*
Lassen	5,543 (31%)
Modoc	1,825 (10%)
Plumas	10,715 (59%)
Total	18,083 (100%)

*FY 2011-12 SRA – Number of Billings

In light of the above distribution and with Plumas County benefitting from a limited CAL FIRE presence it is imperative that the distribution of SRA funds to Plumas County is open and transparent.

The underlying SRA legislation mandates that the Board of Forestry issue an annual report on the use of the fund which will *“include an evaluation of the **benefits received by counties** based on the number structures in SRA within their jurisdictions, the*

*effectiveness of the board's grant programs, the number of defensible space inspections, etc..." (PRC 4214 (f)). The SRA legislation anticipates that the evaluation of proportionality of SRA benefits be done **by County**. In the past, while we have requested this report from the Board of Forestry and from CAL FIRE, we have not received a copy.*

Board Response:

CAL FIRE administers its budget, operations, staffing, and project planning at the Unit level, as well as allocates resources (personnel and physical) at the Unit level to be shared amongst the counties in a given Unit. Requiring the department to administer this singular grant program at the county level, rather than unit, would make this program incompatible with the rest of the department's operations, reporting, and allocation decisions. It would create confusion amongst departmental staff and increase administrative workloads to an unsustainable level.

Although the grant money is administered at the Unit level, the department can create reports on the locations of grant-funded projects throughout the state to evaluate which specific counties have received grant funds and how much. Over the course of the seven-year rolling period, the department can prioritize funding grants in a particular county or counties during a particular year's application review to ensure that over time, SRA funds distributed through this grant program are distributed proportionality to the counties. The goal of the grant program is to return SRA fire prevention fees back to counties as equitably as possible, and the Board has found that administering the program and fee allocation at the Unit level is the best course of action to accomplish this goal.

Rule Text Edit: No

Comment L2-1: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

Notice of Proposed Action 3.18.2016 Document

Page 2 of 7, Informative Digest/Policy Statement Overview section:

First paragraph, last sentence, regarding distribution – define “community of origin” and “proportional”.

Board Response:

The method by which CAL FIRE shall determine “proportional” distribution is described in § 1666.2 on pages 6-8 of the 45-day noticed rule text. See also response to L2-2.

The term “community of origin” is not used in the 45-day noticed rule text and as such does not require a definition. It is used as a shorthand term for “owners of habitable structures within the state responsibility areas who are required to pay the annual fire prevention fee” (PRC § 4214(d)) in the 45 Day Notice and the Initial Statement of Reasons. See also response to L2-2.

Rule Text Edit: No

Comment L2-2: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

Other areas of documents refer to funds / distribution in terms, such as;

- **Commensurate** – SRA FPF Grant Program, 1666.2, section a, line 1.
- **Proportional** - SRA Grant Program, 1666.2, section a, line 3.
- **Proportional** to amount of fees collected from CALFIRE unit/Contract County - SRA Grant Program, 1666.2, section a, subsection 2, line 9.
- Policy Statement Overview section, Page 3 of 7, first paragraph, last sentence – repeats “communities of origin”.

Begs the question: example; how is the CALFIRE Amador-El Dorado Unit (AEU) (funding source geographical boundary) going to determine the correct “proportional” amount of funds to be returned to each “community of origin” which should be every County? Based on other descriptive wording as noted above, especially 1666.2 of the SRA Grant Program document, I believe the AEU and other units are the communities of origin.

Board Response:

The term “commensurate” in § 1666.2(a) corresponds to its plain English definition: *adjective*, 1: equal in measure or extent : coextensive; 2: corresponding in size, extent, amount, or degree : proportionate.¹

The word “proportional” in § 1666.2(a) is followed by “[proportional] distribution of funds shall be measured over the following spatial and temporal scales,” and § 1666.2(a)(1-3) and (b) explain how such proportionality shall be measured and determined. The term “proportional” is used commensurate with its plain English definition: *adjective*, 1: a: corresponding in size, degree, or intensity, b: having the same or a constant ratio; 2: regulated or determined in size or degree with reference to proportions.²

As described in the response to L2-1, the term “communities of origin” used in the 45 Day Notice and Initial Statement of Reasons is a shorthand term for “owners of habitable structures within the state responsibility areas who are required to pay the annual fire prevention fee” (PRC § 4214(d)). That term is not used in the 45-day noticed rule text. Instead, in order to most equitably, effectively, and efficiently meet the intent of the grant program is to benefit those feepayers in PRC § 4214(d), the Board has decided to utilize the CAL FIRE Unit or Contract County as the geographic boundary for determining both fees collected as well as the project expenditures for determining proportionality (§ 1666.2(a)(1), 45 day noticed rule text, page 7 line 5). CAL FIRE Units do often include more than one county, and for information about returning Fire Prevention Funds at the county level please see the response to L1-2 and L2-1.

Rule Text Edit: No

Comment L2-3: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

¹ "Commensurate." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 2 May 2016.

² "Proportional." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 2 May 2016.

This in turn, spawns additional questions:

1. How does each County know that County originated fire fees paid are being returned proportionally to the County of origin when the CALFIRE Units geographical boundaries often cross County lines?
2. What is the Units distribution decision process to return proportional amounts of funding allocated to Counties of origin?

Board Response:

Please see response to L1-2, 2-1, L2-2, and L2-4.

Rule Text Edit: No

Comment L2-4: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

Further: If our assumption is correct that the CALFIRE Units are the “community of origin” for management of grant funds that would be fine as long as “proportional” is further / additionally governed by County Boundaries. Fire fees paid can be easily tracked by county, therefore; proportionality should be easily tracked as long as County boundaries are the common and definitive determinant of grant funding. Example; In the case of the AEU who manages activities in portions of 5 counties, proportionality could be assured by simply computing the percentage (%) allocation of total funding to be returned to individual counties within their jurisdiction. (see 1666.2 Definitions further in this document for simplified example).

Board Response:

Although the administration of the SRA fire prevention fund grant program will take place at the Unit level, including the calculation of fees paid and the calculation of proportional distribution, the department can produce reports demonstrating in which counties funded grant projects are located and can obtain information from the Board of Equalization about the amount of fees paid by each county. During application review, the department can exercise its discretion to fund projects in a county or counties that, over time, has seen less of its proportional fee returned than others. If there are otherwise two equal projects and one is located in a county that has seen significant return of the SRA fee through this grant program and one has not, the department may use that data as a deciding factor to fund the latter rather than the former.

See also response to L1-2, 2-1, and 2-2.

Rule Text Edit: No

Comment L2-5: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

Page 3 of 7, second paragraph – does this BOF grant establishment action replace the current CALFIRE governors emergency declaration SRA grant program?

Page 3 of 7, 3rd & 4th paragraphs – “found no existing State regulations that met the

same purpose”, was the CALFIRE governors emergency declaration SRA grant program not official or for the same purpose?

Board Response:

The Budget Act of 2014 provided \$10 million to the department to provide fire prevention grants focused on reducing the impacts of the statewide drought conditions that are distributed from the SRA Fire Prevention Fund. The Budget Act of 2015 provided another \$5 million to the department for fire prevention grants from the same fund, but did not direct the grant program to be drought focused. The grant application and review criteria and process utilized by the department were created in direct response to the Governor’s budget authorizations in order to distribute those funds.

This action by the Board establishes a permanent structure for a grant program under the SRA Fire Prevention Fund pursuant to the requirement in Public Resources Code § 4214(e). Although the governor allocated money to the department in the Budget Acts of 2014 and 2015 for a grant program utilizing money from the SRA Fire Prevention Fund, those allocations do not suspend the requirement that the Board develop a grant program to distribute any future allocated funds for this purpose. Should the Governor allocate funding for this grant program in the future, the funding will be disbursed in conformance with this proposed structure instead of the structure(s) utilized by the department to distribute the 2014 and 2015 allocations.

Rule Text Edit: No

Comment L2-6: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

Page 5 of 7, Cost Impacts on Representative Person or Business section, 2nd paragraph – “Other costs can be recouped in the proposed grant budget”. As this section refers to expected costs incurred, can costs incurred not in the grant period be recouped? Same issue, same page, Business Report, 2nd paragraph – *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.* In a broad interpretation, “life of the grant” could include preparation time. Needs clarification and definition of time period costs can be incurred in. Definition / clarification would also need to include costs of support, coordinator, direct, indirect, by contract.

Board Response:

The intent of the Board is that grant application preparation costs can be recouped as part of the proposed budget as an administrative/indirect cost as long as the administrative/indirect costs do not exceed 12% of the grant amount.

In the Business Report (45 Day Notice, page 5), “some of these costs....” refers to the immediately preceding sentences, which describe the costs a business may incur to comply with the grant’s business reporting requirement(s). The costs incurred over the life of the grant (e.g., record keeping and report preparation) can be included in the administrative/indirect costs in the proposed project budget, but costs incurred after the grant period is over (e.g., long-term file storage) cannot.

Eligible costs are described in detail in § 1666.15, 45-day noticed rule text page 28. Direct and Indirect costs are defined on page 4 line 19 and page 3 line 10, respectively, of the 45-day noticed rule text. Contractor is defined on page 4, line 16 of the 45-day noticed rule text.

Terms that are not defined in the rule text are used commensurate with their plain English definition:

Contract - *noun*, a : a binding agreement between two or more persons or parties; especially : one legally enforceable

b : a business arrangement for the supply of goods or services at a fixed price.³

Support – *verb*, ...2: a: (1): to promote the interests or cause of (2): to uphold or defend as valid or right : advocate; (3) : to argue or vote for; b: (1): assist, help...3: a: to pay the costs of: maintain; b: to provide a basis for the existence or subsistence of...6: to keep (something) going.⁴

Coordination – *noun*, 1: the act or action of coordinating; 2: the harmonious functioning of parts for effective results.⁵

Rule Text Edit: No

Comment L2-7: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

SRA Fire Prevention Fund Grant Program Title 14, Chapter 13 Document

1666.1 Definitions, line 18 – We strongly support the inclusion of Fire Safe Council Coordinators in the definition of “Administrative Costs (Indirect Costs)”.

We also want to encourage recognition that coordinators efforts are consistent throughout the year contributing to fire prevention and safety efforts. Consider that these consistent efforts support local fire prevention activities that reduce the effects of fire in the state’s wildlands, watersheds and on habitable structures within the SRA. Therefore; we ask consideration that “Direct Costs” can also be used to cover salaries, benefits and expenses of Coordinator’s directly associated with a span of work that a Coordinator does in a year as it is all for the benefit of the SRA home fee payers in each county.

Board Response:

See response to L1-1.

Rule Text Edit: No

Comment L2-8: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

³ "Contract." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 3 May 2016.

⁴ "Support." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 3 May 2016.

⁵ "Coordination." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 3 May 2016.

1666.2 Definitions, Pages 7 & 8, discussion of fees collected and calculation of distributions – The entire discussion / calculation of “expenditures over a rolling seven year period” (page 7, lines 7-9) adds unnecessary calculation and confusion to an already sensitive subject, i.e.; how does the population, not to mention Boards of Supervisors, know that funds are being returned to their county proportionately? Simplify the process;

Total funding available per (this) year	\$
Subtract administrative costs	\$
Total funds available for grants to communities (Counties)	\$
Calculate percentage (%) funding per county based on % of total fire fees paid	\$

Clarification: In our opinion, proportional should be based on the County of origin, not community of origin.

Board Response:

The Board determined that a seven year rolling period to calculate proportionality would be the most equitable way to ensure SRA Fire Prevention Funds were benefitting owners of habitable structures in the SRA. It is possible that in any given year, a county may not have a representative grant application, or that funded grants in any given county will not account for all of that county’s proportional funds due to them that year. In addition, it is possible that a proposed project may account for *more* than a county’s proportional funding for a particular year, and a seven year rolling period for proportionality allows that project to be funded and the county to recover from the “surplus” distribution, so to speak, of their proportional funds. This is particularly to allow counties with smaller amounts of habitable structures in the SRA, such as Tehama, Modoc, or Alpine, that each year pay relatively small amounts of SRA fees, to implement effective projects. If counties with small numbers of habitable structure owners in the SRA were limited only to their proportional funds due each individual year, it is expected that there are some counties that would never had adequate funds available to them to execute a fire prevention project.

Regarding proportionality boundaries, please see response to L1-2, 2-1, 2-2, and 2-4.

Rule Text Edit: No

Comment L2-8: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

1666.3 Applicant Eligibility, #3 CCC – in the 2015-16 governors’ emergency declaration SRA funding the CCC received 5 million dollars. With the requirements for distribution as noted above, how does the CCC assure they spend funding allocated to them “proportionately” and identified to the “community of origin”? Funding to the CCC should also be proportional by county boundaries. Additionally, the CCC does many kinds of projects; trails, etc. Work sponsored by this funding should go specifically to vegetation management / fuels reduction.

1666.3 Applicant Eligibility, #5 – The Cameron Park CSD contracts with CALFIRE for fire protection services. By this language, as example; Cameron Park Fire Department (AEU Battalion 5) could receive SRA grant funding from their umbrella organization CALFIRE. If this is correct, the appearance of a conflict of interest arises.

Board Response:

The Governor's distribution of funds to the California Conservation Corps (CCC) in the Budget Act of 2015 is separate from the distribution of funds to CAL FIRE for the purposes of this grant program and separate from any funds CAL FIRE may award the CCC or certified local Conservation Corps. While the Board agrees that funds disbursed from the SRA Fire Prevention Fund should go directly to fire prevention projects that directly benefit owners of habitable structures within the state responsibility areas who are required to pay the annual fire prevention fee, the Board does not have authority over the CCC and its programming, operational, or budgetary decisions. Any application to this grant program, including those by the CCC or local certified Conservation Corps, must demonstrate such a benefit as outlined in these regulations in order to be successfully funded.

State and federal agencies are not eligible for grant funds under this program (§ 1666.3(b)(1), 45 day noticed rule text, page 9 line 5). In the letter writer's example, Cameron Park Fire Department would have to clearly indicate that their requested funds are going to an entity other than CAL FIRE and the project is managed by someone unaffiliated with CAL FIRE. CAL FIRE resources, such as camp crews, may be utilized in the implementation of the grant as a contracted resource, but the grant must be administered by a non-CAL FIRE entity such as a Fire Safe Council.

CAL FIRE partners with a significant number of fire protection and prevention organizations throughout the state, and if the Board limited grant applications to only those organizations that do not have a history of cooperation with CAL FIRE, there would be very few organizations left who would be eligible for this grant program. The Board determined that it was in the best interest of the SRA feepayers to maximize, rather than minimize, the types of organizations that could apply for a grant.

Rule Text Edit: No

Comment L2-9: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

1666.8 Concept Proposal – This phase was in the original procedural guide and was dropped in the current governor's declaration SRA grant program. The Concept Proposal stage does not contribute any information that cannot be included in a single step grant submittal and adds to workload and costs for everyone unnecessarily. Also, it has possible reference to Cost Impacts as noted earlier relating to incurred costs and time period in which they may count.

Board Response:

At the time this grant program was undergoing stakeholder outreach and review, and the rule text was being developed, the CAL FIRE SRA Fire Prevention Fund grant program consisted of the Concept Proposal phase and the Application phase. It was thought best, for consistency, to mimic that program in the Board's grant program development. As this rulemaking continued through the development process, grant money became available for a second year and the CAL FIRE program did change direction and no longer requires a Concept Proposal.

Since the impacts of the two-phase process versus one-phase process were not yet apparent at the time this rulemaking was in development and promulgated, the Board believed it was best to continue with the two-phase process. This regulation will have to be revisited regularly to be up to date with any given year's funding allocations, and the Board will have the opportunity to reconsider the application process. This comment is noted, and will be considered during future rulemaking efforts.

Rule Text Edit: No

Comment L2-10: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

Comment; sections 1666.8, 1666.10 and 1666.11 contain redundant verbiage. Suggest review to make these sections more concise if possible.

Board Response:

The Board felt the sensitivity of this particular rulemaking required more information rather than less in the rule text, and that the burden of redundant language was worth providing the clearest, most expansive information regarding the grant program. The Board did not want grant concept proposals or applications denied because applicants were confused or misled by the regulatory text.

Since the letter writer does not specify which language in particular is redundant and potentially unnecessary, the Board would prefer to retain the language as in the 45-day notice.

Rule Text Edit: No

Comment L2-11: Steve Willis, Vice Chairperson, El Dorado County Fire Safe Council

1666.16 Project Application Evaluation Criteria, item Community Support, 15% - many FSC's cannot afford / do not have hard match capability and often In-Kind requirement is not feasible. These are SRA Fire Fee Funds already collected from residents and communities.

- Suggest reconsideration to lower match requirement.
- Consider allowing SRA Fire Fee's paid in current grant cycle to be used for match?

Board Response:

§ 1666.16(3) does not require a match or in-kind donation. During the grant review phase, a project may be awarded up to 15 points for demonstrated community support for the project, which *may* include a match or in-kind contributions (§ 1666.16(3)(A), 45 day noticed rule text, page 33 line 8), but also may include community outreach and involvement such as press releases, field tours, informational community meetings about the project, or informational signage about the project (§ 1666.16(3)(B), page 33 line 10), as well as plans for maintenance of the project after the life of the grant (§ 1666.16(3)(C) page 33 line 13) or partnering with other organizations (§ 1666.16(3)(D) page 33 line 15). Any of those project components would earn application points in this

category. The Board thanks the letter writer for his suggested changes to the community support component of grant application review, but finds them irrelevant due to the misunderstanding of the community support components of the grant.

Rule Text Edit: No

Comment L3-1: Frank Stewart, Director Sierra Nevada Region, California Fire Safe Council

Thank you for the opportunity to provide my input to the proposed Board of Forestry and Fire Protection "SRA Fire Prevention Fund Grant Program" documents that are out for public review and comment and will support the annual salaries and expenses of the County, Regional and/or Community Fire Safe Council Coordinator's that apply. As you are well aware, I and various County/Regional Fire Safe Council Coordinators have been actively participating in the monthly Board of Forestry and associated Resource Protection Committee meetings for the past year and a half in order to get this critical issue of covering annual salaries and expenses of C/R/C FSC Coordinator salaries into the Board's forthcoming SRA Fire Prevention Fund Grant Program.

Back in March, when you Published the draft documents, I forwarded them to all of the County and/or Regional Fire Safe Council Coordinators and received back e-mails that expressed concerns that the issue of covering annual salaries and expenses of Coordinator's is not authorized in the Initial Statement of Reason and Code of Regulations provided for public review and comment. Although I interpret that annual salaries and expenses are authorized under a single grant project situation where all costs are direct costs and I encourage you to make positive wording changes to the appropriate sections of the proposed regulations in order to clarify this critical point for the concerned Coordinator's and the public.

In Section 1666.1 Definitions under Indirect Costs you list Fire Safe Council Coordinators as a recipient of Administrative Costs which has an upper \$ limit of 12% of the project grant amount. In the same section under Direct Costs you have no upper \$ limitations on expenses of doing business that are directly attributable to the project and you do not list Fire Safe Council Coordinators as a potential recipient. It is my interpretation that coverage of annual salaries and expenses of C/R Fire Safe Coordinators would qualify under a single Fire Prevention Project designation.

The three enclosed County Fire Safe Council Documents show that the individual Mission Statements, Coordinator Duties, Tasks and Responsibilities of the County/Regional and/or Community Fire Safe Council Coordinator's provide critically needed fire prevention activities (project) that reduce the effects of fire in the states wildlands and watersheds on habitable structures within the SRA while providing a positive input to the environment and an increased benefit to public health and safety.

Under Section 1666.5(a)(4) on page 10 of the Initial Statement of Reason you state that "after extensive input from representatives of various Fire Safe Councils" the Board determined that a cap of 12% was reasonable to cover the administrative costs of "performing these activities". On page 11 of the proposed regulations under Section

1666.5 Non-Qualifying Projects (4) Projects with admin costs greater than 12% of the total grant request would not qualify. This is why it is critically important that you clarify that the Resource Protection Committee and Board approved both the Indirect Cost and Direct Cost recognition and distribution of SRA Grant Funds to cover the annual salaries and expenses of County/Regional and/or Community Fire Safe Council Coordinator's.

As you are well aware, the Secure Rural Schools Act terminated last year and Title III funds of that Act were used by County Boards of Supervisors to fund their County/Regional FSC Coordinator annual salaries and expenses. This is why it is critically important that the Board SRA Grant program recognize and meet this important challenge.

Board Response:

See response to L1-1.

Rule Text Edit: No

Comment L4-1: Ha Dang, Agricultural Commissioner, San Diego County

1. Allows for a two-phase Concept Proposal relating to the proposed Sections 1666.4(d) – Qualifying Fire Prevention Planning Project, and 1666.4(e) – Other Qualifying Projects in the proposed text. The first phase includes the initial research and data collection from affected parties such as community planning groups, school, fire, and water districts, parks and public works departments, homeowner associations, conservancy groups, habitat managers, and other. GIS technology may be used to generate useful maps that identify critical areas of concern. The second phase includes identifying the specific approaches to effectively and efficiently address these areas. This approach may benefit many other counties within the State.

Board Response:

The Board does not believe this approach would provide for an efficient and cost-effective grant program for the State or the affected public. There exists already ample opportunities for local communities to identify areas of concern, including Community Wildfire Protection Plans, Unit Fire Plans, Habitat Conservation Plans, and General Plans and related Area or Specific Plans, among others. It is expected that this grant program will fund projects that have previously been identified in such a plan or will fund the creation or update of such a plan. The Board does not see a need to replicate the planning process in the Concept Proposal phase. The work described by the letter writer would fall under a fire prevention planning project (§ 1666.4(d)).

Rule Text Edit: No

Comment L4-1: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:
a. The person who would be the Reviewer and how this person would determine that a Concept Proposal is complete and approves grant funding.

Board Response:

It is impossible to determine exactly who the reviewer would be, as department staff change (i.e. promote, retire, transfer, resign, etc.) from year to year. The reviewer would likely be a person or persons from the Department of Forestry and Fire Protection with knowledge of and experience in fire prevention project implementation and the SRA fee program. The reviewer would determine a Concept Proposal is complete by evaluating the submitted Concept Proposal against the process and criteria established in §§ 1666.10 and 1666.11 on pages 18 through 21 of the 45 day noticed rule text, utilizing their best judgment, based on their professional experience and the project proponent's ability to effectively articulate their project's budget, goals, timelines, etc, to reach a decision.

Rule Text Edit: No

Comment L4-2: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:

b. The person who would be the Evaluator and how this person would interpret the requirements of the Program and apply the 100-point system.

Board Response:

It is impossible to determine exactly who the evaluator would be, as department staff change (i.e. promote, retire, transfer, resign, etc.) from year to year. The evaluator would likely be a person or persons from the Department of Forestry and Fire Protection with knowledge of and experience in fire prevention project implementation and the SRA fee program. The evaluator would apply the Project Application Evaluation Criteria (§ 1666.15, page 30 of the 45 day noticed rule text) and utilize their best judgment, based on their professional experience and the project proponent's ability to effectively articulate their project's budget, goals, timelines, etc, to reach a decision.

Rule Text Edit: No

Comment L4-3: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:

c. Allow an opportunity for the applicant during the review process of the Concept Proposal to add information and make changes that might circumvent a 'no' response from the Reviewer.

Board Response:

It is the intention of the Concept Proposal phase, and this was borne out to bear in the Concept Proposal phase of the FY 2014/2015 grant program, to extend the benefit of the doubt to project proponents when reviewing the Concept Proposals and only exclude those projects from the Application phase that are clearly not eligible or applicable to the SRA Fire Prevention Fund Grant Program, for example, projects in Local or Federal Responsibility Areas, projects submitted by individuals, or projects that exceeded that \$250,000 cap.

Rule Text Edit: No

Comment L4-4: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:
d. The difference between qualifying and non-qualifying projects.

Board Response:

Qualifying projects are described in § 1666.4, page 9 of the 45-day noticed rule text, and non-qualifying projects are described in § 1666.5 on page 11 of the 45-day noticed rule text. Without more information about how or why the difference between qualifying and non-qualifying projects is unclear to the letter writer, the Board cannot provide any further clarifying information.

Rule Text Edit: No

Comment L4-5: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:
e. California Strategic Fire Plan, CAL fire [sic] Unit Fire Plan, Community Wildfire Protection Plan, and County Fire Plan

Board Response:

The California Strategic Fire Plan refers to the *2010 Strategic Fire Plan for California* developed by the Board of Forestry and Fire Protection and the Department of Forestry and Fire Protection pursuant to Public Resources Code §§ 4114 and 4130. The plan is available online at

http://bofdata.fire.ca.gov/board_committees/resource_protection_committee/current_projects/resources/strategicfireplan_june2010_06-04_photos.pdf

CAL FIRE Unit Fire Plan and/or County Fire Plan refer to plans that document assessments of the fire situation within each of CAL FIRE's 21 Units and six contract counties. The plans include stakeholder contributions and priorities, and identify strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work within the area where the heightened local fire risk exists. These Plan documents are available online at CAL FIRE's website:

http://cdfdata.fire.ca.gov/fire_er/fpp_planning_plans

Community Wildfire Protection Plan (CWPP) refers to one of the mechanisms under which communities can receive priority for funding for hazardous fuel reduction projects under the federal Healthy Forests Restoration Act of 2003, as amended. Because of the requirements in the CWPP process for community collaboration, strategic risk assessment, and project priority development, the Board felt CWPPs were an appropriate document which project applicants could use to indicate their proposed project fell within the overall strategic fire protection plan for the respective landscape. Information about CWPPs is available from the federal government at

<https://www.forestsandrangelands.gov/communities/cwpp.shtml>.

All of these plans are commonly used, referenced, and known by the regulated public and the Board determined that providing definitions for them would be redundant.

Rule Text Edit: No

Comment L4-6: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:
- f. The appropriate project deliverables and the metrics to measure success.

Board Response:

In the interest of soliciting a variety of project proposals as well as recognizing that the unique topography, geography, demographics, and fire risk of different areas of the state will require different fire prevention activities, the Board determined it would be inappropriate to establish a specific, static series of project deliverables and success metrics for projects. Part of the Concept Proposal and Application requirements is articulating the proposed project's deliverables and success metrics, and it is up to the project proponent to determine what is appropriate for their unique proposal. Requiring arbitrary project deliverables and success metrics for the variety of projects and the variety of landscapes the Board is hoping to solicit projects from would have the opposite effect of discouraging potential project proponents from applying, concerned they may not meet the Board's specific project standards.

Rule Text Edit: No

Comment L4-7: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:
- g. The time frame in which the invitation-to-apply letter would it [sic] be sent during the application process[.]
 - h. The time frame for a Concept Proposal review and notification of acceptance.
 - i. The time frame for a Project Application review, notification of approval and funding availability.

Board Response:

The Board felt it would be overly burdensome to the department to provide specific required dates by when the above actions must occur. There are many variables that go into creating the grant process timeline from year to year and it would be premature to force the department to adhere to arbitrary dates chosen by the Board during rulemaking. It is expected that the department would communicate these dates to the public when the grant application and application information became available each year, as they have for the FY 2014/2015 and 2015/2016 grant programs.

To a certain extent, the grant timelines are self-regulating based on a fiscal year; money becomes available in July of each year, the information about applying is generally available in the fall, and contracts between grant awardees and the department must be signed by March. This provides a basic timeline for the interested public, but is not part of the proposed regulatory text for the above reasons.

Rule Text Edit: No

Comment L4-8: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:

j. The method for inviting successful Concept Proposal applicants to submit a Project Application.

Board Response:

A successful Concept Proposal proponent would be notified via the contact information provided pursuant to § 1666.8(a)(2), page 14 line 18 of the 45 day noticed rule text.

Rule Text Edit: No

Comment L4-9: Ha Dang, Agricultural Commissioner, San Diego County

2. Clarify the following items in the proposed Section 1666.1 Definition section:

k. A checklist of necessary forms that eligible applicants may use in ensuring a complete submittal.

Board Response:

An optional checklist such as the one suggested by the letter writer is not subject to rulemaking under the Office of Administrative Law and as such is not part of this rulemaking proposal. The Board shall pass on this recommendation to the department.

Rule Text Edit: No

Comment L4-10: Ha Dang, Agricultural Commissioner, San Diego County

3. San Diego County Department of Parks and Recreation (County Parks) currently has several active labor contracts with CAL FIRE for vegetation management and fuel reduction both inside and outside of SRA areas to maintain park lands. We would like to continue to contract with individual Cal Fire [sic] camps for this service.

Board Response:

This proposed rulemaking would not affect contracts such as the one the letter writer described. If the letter writer could be more specific about how they believe this proposed rulemaking may affect these contracts, the Board would respond to their concerns more specifically.

Rule Text Edit: No

Comment L4-11: Ha Dang, Agricultural Commissioner, San Diego County

4. Allow grant funding under the proposed process to include fuel reduction measure outside the SRAs to address invasive pest issues in the Tijuana River Valley and San Luis Rey Parks. These invasive pests may not be a direct threat to specific SRAs yet, there still would be impact to CAL FIRE resources in the event of a major fire in areas infested by GSOB and SHB.

Board Response:

The Board appreciates the scope and complexity of the tree mortality and invasive pest complexes in San Diego County, however, the Legislature established a very clear and limited scope of the proposed program in Public Resources Code § 4214: “(d) Moneys in the fund shall be used only for the following *fire prevention activities*, which shall

benefit owners of habitable structures within the state responsibility areas who are required to pay the annual fire prevention fee pursuant to this chapter..." (emphasis added). The Board does not believe projects outside the SRA provide the direct benefit required by PRC § 4214; unless project proponents can demonstrate a clear nexus between the invasive pest complex, fire prevention, and benefitting the owners of habitable structures in the SRA, the Board cannot fund such a project.

Should the terms of the SRA fee and/or the statutory authority for the grant program be revised, the Board would be pleased to revisit this recommendation and re-consider funding the proposed projects.

Rule Text Edit: No

Comment L4-13: Ha Dang, Agricultural Commissioner, San Diego County

5. Allow an agency to submit more than one grant proposal for fuel reduction projects in different areas of the County. Allow for better coordination and continuity of fuels projects across local jurisdictional boundaries (fire agencies, fire safe councils, etc...)

Board Response:

The Board is unaware of any limitation on the number of grant proposals that may be submitted by any one agency. If the letter writer would direct the Board to the specific language they believe limits agencies to one proposal, the Board could respond to this concern more specifically and make rule text changes as appropriate.

The Board believes there are many opportunities in this grant proposal process to demonstrate coordination across jurisdictional boundaries and awards *more* points to proposed projects that demonstrate such cooperation and coordination (see § 1666.16(c)(1), (3), (6)(B), page 32 through 34 of the 45 day noticed rule text).

Rule Text Edit: No

Comment L4-14: Ha Dang, Agricultural Commissioner, San Diego County

6. Allow extra points related to Gold Spotted Oak Borer, Invasive Shot Hole Borer and other invasive tree pests, resulting [in] a priority ranking in the evaluation process.

Board Response:

While the proposed Concept Proposal and Application evaluation criteria do not offer extra points for invasive tree pests, there are opportunities throughout the Concept Proposal and Application to address how projects will reduce wildfire risks to habitable structures in the SRA, which requires a discussion of the risk context in that particular area, which would include any invasive pest infestations. While the reviewer cannot award extra points for invasive pest problems, they can evaluate the impact of the proposed project on the whole context of the fire hazardous in the area of the proposed project and award points accordingly.

Rule Text Edit: No

Comment L4-15: Ha Dang, Agricultural Commissioner, San Diego County

7. Allow for fuel reduction measures outside of the SRAs if they address pests that are likely to spread to the SRAs.

Board Response:

See response to L4-11.

Rule Text Edit:

Comment L4-15: Ha Dang, Agricultural Commissioner, San Diego County

8. Expand criteria for eligible applicants to include organizations and industries regardless of their history or mission related to fire and fuel management. This would allow the agricultural sector to focus on reducing fire risk in groves (i.e. citrus and avocado groves in San Diego County that have been neglected or abandoned with dry dead trees as a consequence of invasive pest infestations and prolonged drought). Focus should be on the benefits and scope of project and the organization's capacity to implement the proposed projects.

Board Response:

The criteria for eligible applicants does not limit applications to those only from fire and fuel management organizations, although this proposed grant program is naturally appealing to such organizations. § 1666.3 allows a variety of local organizations to apply, including but not limited to water districts, resource conservation districts, and non-profit organizations (page 8 lines 14 through 23).

However, applications from individual landowners that propose a project to be completed only on their own land are not eligible to apply. The Board determined that funding such projects would not serve the intent of the program to provide a maximum benefit to SRA fee payers. This would likely disqualify many of the projects the letter writer is suggesting should be eligible. In addition, agricultural land does not typically qualify as SRA under PRC § 4126.

Should the terms of the SRA fee, the definition of SRA, and/or the statutory authority for the grant program be revised, the Board would be pleased to revisit this proposal and re-consider funding such projects.

Rule Text Edit: No

Comment L4-16: Ha Dang, Agricultural Commissioner, San Diego County

9. Expand criteria for eligible proposals to include pre and post fuel reduction work (e.g. research, survey and mapping, resource development for management decision tools, recovery and restoration projects).

Board Response:

Some of the projects suggested by the letter writer may be eligible fire prevention planning or education projects; the letter writer should be aware that this grant program proposes to fund more than just fuel reduction.

While the Board appreciates the value such projects as suggested by the letter writer bring to wildfire risk reduction, the Board takes its obligation to the SRA feepayers very seriously. The SRA Fire Prevention Fund is intended to return the SRA fee, proportionally, to those feepayers in the SRA who have paid the fee expecting a direct fire prevention benefit. If a proposed project cannot sufficiently demonstrate that direct benefit, the Board cannot fund it. The Board does not believe most of the projects illustrated by the letter writer provide the direct benefit required by PRC § 4214, but this proposed program does not explicitly disallow such projects; if that direct benefit can be demonstrated by the project proponent, they could apply if they so desired.

Rule Text Edit: No

Comment L4-17: Ha Dang, Agricultural Commissioner, San Diego County

10. Expand criteria for eligible proposals to include properties, such as groves/agricultural lands, that are in between or adjacent to habitable structures or can cause a fire to spread from one community to another. This has been a major problem in San Diego County in previous firestorms.

Board Response:

See response to L4-11 and L4-15.

If a proposed project can sufficiently demonstrate its benefit to owners of habitable structures in the SRA who pay the SRA Fire Prevention Fee and the project proponent is an eligible applicant, project proponents can submit Concept Proposals and/or Applications and the value of the proposed project will be measured against other submitted projects for possible funding. Projects that may achieve the objectives outlined by the letter writer are not immediately disallowed.

Rule Text Edit: No

SPEAKER COMMENTS AND RESPONSES RESULTING FROM THE PUBLIC HEARING CONDUCTED MAY 12, 2016

No public comment was received during the hearing.

WRITTEN COMMENTS AND RESPONSES RESULTING FROM 15-DAY NOTICE OF PROPOSED RULEMAKING PUBLISHED MAY 20, 2016

No public comment was received during the public comment period.

WRITTEN COMMENTS AND RESPONSES RESULTING FROM THE PUBLIC HEARING CONDUCTED JUNE 15, 2016

No public comment was received during the hearing.