

INITIAL STATEMENT OF REASONS

Forest Improvement Program, Urban Forestry, Chaparral Management Regulatory Updates, 2009

[Published June 5, 2009]

Title 14 of the California Code of Regulations (14 CCR):

Adopt:

§1530.05 Waiver of Cost Sharing

Amend:

§ 1553 Grant Guidelines
§ 1554 Acceptance for Review and Filing
§ 1561.1 Definitions
§ 1562 General Eligibility Criteria
§ 1564 Cost Sharing Schedules
§ 1567 Rejection of Application

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATIONS ARE INTENDED TO ADDRESS

Existing regulations for the California Department Forestry and Fire Protection's (CAL FIRE) Forest Improvement Program, Urban Forestry Program Procedures, and Chaparral Management Program specify the manner in which the state shares the cost of beneficial work in urban and undeveloped landscapes with private landowners and other entities. The work carried out through these programs includes, but is not limited to, tree thinning, planting, hazardous vegetative fuel treatment, urban forestry projects, and prescribed burning.

The federal American Recovery and Reinvestment Act (ARRA) of 2009 is intended to provide a total of \$250 million dollars in federal funds nationwide in support of state and private, urban and rural forestry projects. The United States Forest Service (USFS), Region 5, will be administering these federal funds to state and private entities. USFS representatives have indicated to CAL FIRE representatives that the state will be a likely recipient of a portion of the available funds. The state would then administer the funds as grants to private landowners, fire safe councils, and other entities.

However, ARRA requires that there be no cost share requirement associated with the federal funds. The existing Grant Guidelines in 14 CCR 1553

regulations identified in this proposal all specify a cost share requirement. Therefore, in order to potentially receive federal funds, the regulations must be modified to allow for waiver of the cost share requirement. As the funds are expected to become available soon, there is some urgency to this regulatory proposal.

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATIONS

This regulatory proposal is intended remove impediments in the form of cost share requirements for the Forest Improvement, Urban Forestry, and Chaparral Management Programs such that federal funding may be secured for these programs. The American Recovery and Reinvestment Act (ARRA) recently took effect and could potentially provide millions of dollars in federal funds to support these programs. In order to receive funds, ARRA specifies that there be no cost share requirement imposed. This proposal modifies regulatory language for these programs to include provisions for waiving cost share requirements.

The proposed amendments also make non-substantive clerical changes to update the regulation consistent with current statutory and regulatory content and terminology.

Adoption of 14 CCR § 1530.05 establishes the wavier of landowner cost share requirements for projects under the California Forest Improvement Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to 14 CCR § 1553 (e) establishes grant guidelines for the wavier of landowner cost share requirements for projects under the Urban Forestry Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to 14 CCR § 1554 eliminates reference to the Urban Forestry Program (UFP) grant projects needing to be “partially” financed by the UFP. Under the proposed amendments, grants may be fully funded by the UFP. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to definitions in 14 CCR § 1561.1 and 14 CCR§ 1562 (a)-(e) for the Chaparral Management Program are non-substantive clerical changes to update the regulation consistent with current statutory and regulatory content and terminology.

Amendments to 14 CCR§ 1562 (f) for the Chaparral Management Program establishes the wavier of landowner cost share requirements for projects under

this Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to 14 CCR§ 1564 (a) for the Chaparral Management Program establishes the wavier of landowner cost share requirements for projects under this Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners. All other amendments under this subsection are non-substantive clerical changes to update the regulation consistent with current statutory and regulatory content and terminology.

Amendments to 14 CCR § 1567 eliminates reference to the need for cost sharing under the Chaparral Management Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

ALTERNATIVES TO THE REGULATIONS CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES

The State Board of Forestry and Fire Protection (Board) has considered several alternatives to the proposed regulation:

Alternative 1: No Changes to Regulations.

This alternative would cause no change to the current regulations for the Forest Improvement, Urban Forestry, and Chaparral Management Programs thereby preserving an unintended condition in which federal funds authorized by ARRA could not be received. For this reason, this alternative was rejected.

Alternative 2: Sunset Date for Proposed Cost Share Waiver Language.

This alternative would cause the proposed modifications to the existing cost share requirements to sunset and terminate unless otherwise readopted by the Board. As the proposal does not eliminate the existing cost share language, and only adds an allowance for waiving the cost share requirements, a sunset date was determined to be inappropriate. For this reason, this alternative was rejected.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board finds that this proposed regulation would not result in significant adverse environmental effects. The proposal only specifies allowance for waiver of cost share requirements and would in no way alter existing environmental protections or result in a physical effect on the environment.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board finds that this proposed regulation would not have an adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

This regulatory proposal does not impose a requirement for its use and is solely intended to secure potential federal funds in support of programs that benefit the state and its population.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board consulted the following listed information and/or publications as referenced in this *Initial Statement of Reasons*. Unless otherwise noted in this *Initial Statement of Reasons*, the Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

1. California Department of Forestry and Fire Protection Report to the Board of Forestry and Fire Protection's Management Committee, On Federal Funding Availability through American Recovery and Reinvestment Act (ARRA). March-April 2009.
2. American Recovery and Investment Act of 2009.
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf

Pursuant to Government Code § 11346.2(b)(5)

In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Initial Statement of Reasons*; the Board has directed the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

PROPOSED TEXT

The proposed revisions or additions to the existing rule language are represented in the following manner:

The following revisions or additions to the existing rule language are represented in the following manner:

- underline indicates an addition to the California Code of Regulations, and ~~strikeout~~ indicates a deletion from the California Code of Regulations.

All other text is existing rule language.