

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations**

[Published June 5, 2009]

NOTICE OF PROPOSED RULEMAKING

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

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

The Board of Forestry and Fire Protection (Board) proposes to amend and adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

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 HEARING

The Board will hold a public hearing starting at 8:00 A.M., on Wednesday, August 5, 2009, at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code section 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

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., Monday, July 20, 2009.** The Board will consider only written comments received at the Board office by that time (in addition to those written comments received 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: Christopher Zimny
Regulations Coordinator
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 9th Street
Sacramento, CA

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:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) Sections 4551, 4551.5 and 4554.5 authorize the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4428, 4464, 4475, 4476, 4513, 4551.5, 4561, 4584, 4795, 4799, 4799.02 and 21080.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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 federal American Recovery and Reinvestment Act (ARRA) of 2009 may provide funding in support of these state and private, urban and rural forestry projects. However, ARRA requires that there be no cost share requirement associated with the federal funds and the existing Grant Guidelines in regulations for these programs all specify a cost share requirement.

In order to potentially receive federal funds for these programs, the regulations must be modified to allow for waiver of the cost share requirement. This regulatory proposal is intended to 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.

SPECIFIC PURPOSE OF THE REGULATION

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.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC Section 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None are known.
- Potential cost impact on private persons or directly affected businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business because the proposed regulation imposed no new requirements on small business.
- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.

- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 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.

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: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action, using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF 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:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

/s/ Christopher Zimny

Christopher Zimny
Regulations Coordinator
Board of Forestry and Fire Protection