

## Appendix A

### Proposed Regulation Order

#### Environmental Enforcement and Training Grant Program

This version of the Proposed Regulation Order complies with Government Code section 11346.2 subdivision (a)(3). The proposed amendments are shown in underline to indicate additions to, and strikethrough to indicate deletions from, the existing regulatory text. Subsections for which no changes are proposed in this rulemaking are indicated with \* \* \*. The entire text of section 10019 set forth below is new language in “normal type” proposed to be added to title 27 of the California Code of Regulations.

#### **Title 27. Environmental Protection**

#### **Division 1. General Functions and Responsibilities**

#### **Subdivision 0.5 Administration**

#### **Chapter 2. Environmental Enforcement and Training Grant Program**

#### **Article 1. Description, Procedures, Criteria, Restrictions, and Administration**

**Amend** section 10011 of title 27 of California Code of Regulations, to read:

#### **§ 10011. Scope of Article and Applicability.**

(a) These regulations apply to ~~applicants seeking Environmental Enforcement and Training Grant Program Act funds~~ grants, applicants for such funds, and grant recipients under the Environmental Enforcement and Training Grant Program established by the Secretary of the California Environmental Protection Agency.

(b) The regulations in this Article, ~~provide the following as required by Penal Code section 14301:~~

(1) Describe how grants are to be allocated or awarded;

(a2) Describe the procedures for applying for Environmental Enforcement and Training Act grants;

(b3) Describe the criteria to be used in determining which applications will be funded; and

(c4) Describe the administrative and fiscal requirements governing the receipt and expenditure of Environmental Enforcement and Training Act grant funds.

**Authority: Penal Code section 14301, 14314.**

**Reference: Penal Code sections 14300, 14301, 14303, 14306, 14307, 14308, 14309, 14314.**

**Amend** section 10012 of title 27 of California Code of Regulations, to read:

**§ 10012. Definitions.**

~~(a) The definitions contained in Section 14300(b) of the Penal Code are incorporated herein by reference. For purposes of this Article, the following definitions shall apply:~~

(1) “Account” means the Environmental Enforcement and Training Account created pursuant to Penal Code section 14303.

(2) “Agency” means the California Environmental Protection Agency.

(3) “Authorized Representative” means the person with consent and authority to represent and bind an applicant organization or grant recipient concerning Environmental Enforcement and Training Act Grants.

(4) “Commission” means the Commission on Peace Officer Standards and Training.

(5) “Discretionary Environmental Enforcement and Training Act Grants” or “Discretionary Grants” means grants the Secretary may award from the remaining funds in the Environmental Enforcement and Training Account after the amount earmarked for the Commission, pursuant to Penal Code section 14314.

(6) “Environmental Enforcement and Training Grant Program” means the program established within the Agency and administered by the Secretary to implement the Environmental Enforcement and Training Act in Penal Code sections 14300 et seq. This program includes the environmental enforcement and training program elements set forth in Penal Code sections 14306 to 14308, and the Environmental Circuit Prosecutor Grant Program set forth in Penal Code section 14309.

(7) “Environmental Enforcement and Training Grant Program Funds” means the funds from the Environmental Enforcement and Training Account appropriated by the Legislature to be used on the Environmental Enforcement and Training Grant Program.

(8) “Grant Recipient” means the organization that receives funding pursuant to section 10016(d)(3) of this Article.

(9) “Secretary” means the Agency Secretary for the California Environmental Protection Agency or their designee.

~~(b) “Cal/EPA” means the California Environmental Protection Agency.~~

**Authority: Penal Code section 14300, 14301, 14303, 14306, 14307, 14308, 14309, 14314.**

**Reference: Penal Code sections 14300.**

**Amend** section 10013 of title 27 of California Code of Regulations, to read:

**§ 10013. General Provisions Funding.**

~~(a) These regulations implement provisions in the Environmental Enforcement and Training Act of 2002. The Act created a potential funding source for California environmental training, investigation and enforcement activities. The Secretary has established the Environmental Enforcement and Training Grant Program to allocate and award funds, upon appropriation by the Legislature, to public agencies or private nonprofit organizations for purposes of supporting and enhancing statewide environmental enforcement and training programs for peace officers, firefighters, investigators, state and local environmental regulators, and public prosecutors pursuant to Penal Code section 14301, et seq.~~

~~(b) The Environmental Enforcement and Training Grant Program funds are derived from the Environmental Enforcement and Training Account. This Account may provide up to two million dollars (\$2,000,000) annually for distribution by the Secretary, upon appropriation by the Legislature. The Secretary may accept and receive, for deposit into the Account, any contribution of funds from a public or private organization, or an individual, including the proceeds from a judgment in state or federal court, when the funds are contributed or the judgment specifies that the proceeds are to be used to carry out Penal Code sections 14300 et seq. Contributors shall not have the authority to influence or direct the use of their contributions to the Account, except as provided in section 10017(d) of this Article.~~

~~(b) The Secretary shall distribute the funds available in the Account and appropriated by the Legislature, as follows:~~

~~(1) Twenty-five percent<sub>1</sub> or one hundred thousand dollars (\$100,000)<sub>1</sub>, whichever is less<sub>1</sub> to the Commission on Peace Officer Standards and Training. The Commission may decline all or part of these funds allocated to it pursuant to this subdivision. Any funds so declined shall be reallocated by the Secretary for the training of peace officers<sub>1</sub> as allowed by Penal Code section 14314<sub>1</sub>, and~~

~~(2) Twenty-five percent to the Environmental Circuit Prosecutor Project through the California District Attorney's Association.~~

~~(3) Twenty-five percent to the California District Attorneys Association for training and assistance as allowed by Penal Code sections 14306 and 14307.~~

~~(4) The balance to the Secretary for discretionary grants to eligible entities, as defined in section 10016 of this Article, for projects identified inas allowed by Penal Code sections 14306 through 14308 or 14309, that meet the requirements of this Article. The Secretary shall allocate funds based on demonstrated need<sub>1</sub> or in order to sustain the current level of presence and enforcement for those programs.~~

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**Authority: Penal Code section 14301, 14303, 14306, 14307, 14308, 14309, 14314.**  
**Reference: Penal Code sections 14300.**

**Amend** section 10014 of title 27 of California Code of Regulations, to read:

**§ 10014. Purpose of the Environmental Enforcement and Training Grant Program.**

The ~~Secretary has established the~~ Environmental Enforcement and Training Grant Program is established in order to provide financial assistance for statewide enforcement and training programs on the enforcement of environmental laws for eligible entities; to enhance the enforcement of environmental laws; and to ensure that disadvantaged communities, low-income residents, and other populations that are disproportionately burdened by pollution receive the benefit of enforcement of local, state, and federal environmental laws. ~~Under this program, the Secretary is authorized to award both mandatory and discretionary training and enforcement grants.~~

(a) ~~Upon appropriation, grant funds shall be awarded by the Secretary to: 1) the Commission on Peace Officer Standards and Training, if the funds are not declined, pursuant to Penal Code section 14314; 2) the Environmental Circuit Prosecutor Project through the California District Attorney's Association; and 3) the California District Attorneys Association in accordance with the Act and these regulations.~~

(b) ~~Discretionary grant funds may be awarded by the Secretary to public agencies or private nonprofit organizations and local environmental regulators in accordance with the Act and these regulations.~~

**Authority: Penal Code section 14300, 14301, 14306, 14307, 14308, 14309, 14314.**  
**Reference: Penal Code sections 14300.**

**Amend** section 10015 of title 27 of California Code of Regulations, to read:

**§ 10015. Procedures for Applying for Environmental Enforcement and Training Act Grants.**

(a) To apply for an discretionary grant for enforcement and/or training grant under this program, or for a peace officer training grant for funds reallocated pursuant to section 10013(b)(1), qualified eligible entities must complete an application as specified by the Secretary. The application will require, signed by an authorized representative under penalty of perjury, that includes, at a minimum, all of the following information:

(1) The organization's name, physical mailing/business address and post office box, business telephone and fax numbers, and e-mail and web page addresses, if applicable;

## Appendix A: Proposed Regulation Order

~~(2) The application must be signed by a person duly authorized by the applicant organization and provide the authorized person representative's name, title, business telephone and fax numbers, and e-mail address.~~

~~(3) The name, title, business telephone number, and business e-mail address of the person with day-to-day responsibility for the project (if different from the authorized representative) and that person's telephone and fax numbers, and e-mail address.~~

(4) A narrative/work plan that describes the applicant's proposed project. The narrative/work plan must contain, at a minimum, all of the following information:

(A) A concise description of the proposed project,

~~(AB) Identify t~~The environmental enforcement and/or training objectives to be addressed by the project. This includes the need the project seeks to address, the communities the project is intended to benefit, and a description of how the proposed project will enhance the enforcement of environmental laws.

~~(C)~~Applications for training courses shall include one or more of the following environmental justice learning objectives for course participants, or explain why such a component is not included:

(1) Developing an understanding of environmental justice laws and principles, including, but not limited to, the importance of community engagement and transparency in environmental enforcement efforts,

(2) Gaining familiarity with techniques for identifying disadvantaged, low-income, or overburdened communities, and strategies for targeting enforcement resources, projects or plans to their benefit, and/or

(3) Developing tools and strategies for incorporating community engagement and increased transparency, where appropriate, into enforcement efforts.

~~(DB) Identify t~~The project's environmental enforcement and/or training target audience, and how the organization intends to reach this audience,

~~(GE) Identify t~~The environmental statutes/acts addressed by the project.

## Appendix A: Proposed Regulation Order

~~(DF) Provide a~~ concise introduction that states description of the nature of the organization, including whether the applicant is a private nonprofit and, if so, documentation to support the organizations its non-profit status.

~~(E) Identify how long the organization has been in existence.~~

~~(FG) A description of~~ Describe how the organization has been successful in the past, including on similar projects, and how those past successes will allow it to better implement the proposed project.

~~(G) Describe the environmental justice component of the program required by Section 10016(b)(3), or the reason(s) such a component is not included in the project.~~

~~(H) Provide~~ Estimated project completion plans/time frames, and the expected results. Applications for circuit prosecutor grants need not identify specific cases for prosecution, but shall set forth the expected results of the proposed project, to the extent feasible.

~~(I) Provide a conclusion discussing how the applicant will evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.~~ Metrics for evaluating the success of the project.

~~(J) Provide~~ Proposed budget figures/projections to support the work-plan narrative.

~~(K) Provide a succinct explanation of how the project may serve as a model in other settings.~~

~~(L) Provide a~~ An appendix with the resumes of key personnel who will be significantly involved in the project, including the project lead, and

~~(ML) Provide~~ Letter(s) of commitment, if your proposed project includes the significant involvement of other organizations, an estimate of any monetary contributions to the proposed project of these other organizations, and the amounts of other grants sought for or awarded to the project;

(5) For proposed training courses, an explanation of how the course will comply with Penal Code sections 14306 or 14307. For circuit prosecutor projects, an explanation of how the project will further the purposes set forth in, and be consistent with, Penal Code section 14309, including, but not limited to, the requirement, if applicable, that participating district attorney offices shall provide matching funds or in-kind contributions equivalent to, but not less than, 20 percent of the expense of the deputized environmental circuit prosecutor. Where

Appendix A: Proposed Regulation Order

the Commission is seeking additional funding for training, the Commission must show that the training is mandated or there are substantial changes in the law that require the Commission to revise its environmental law courses;

(6) A certification stating that the applicant and all organizations anticipated to be involved in the project are in compliance with all applicable federal, state, and local laws as of the application date; and

(7) Any other information requested by the Secretary to evaluate the application.

**Authority: Penal Code section 14300, 14301, 14306, 14307, 14308, 14309, 14314, 14315.**

**Reference: Penal Code sections 14300.**

**Amend** section 10016 of title 27 of California Code of Regulations, to read:

**§ 10016. Eligibility, Criteria, Review and Selection Process for Environmental Enforcement and Training Act Grants.**

(a) Entity Eligibility.

(1) The following are not eligible to receive funding or submit applications for grants under this Article, and the Secretary shall not consider applications from them:

(A) Individuals are not eligible to receive grants.

(B) Organizations not statutorily allowed to receive funding, and

(C) Organizations out of compliance with applicable federal, state, or local law.

(2) The following are eligible to receive funding or submit applications for grants under this Article, and the Secretary may consider applications from them:

(A) Any private nonprofit or public entity not ineligible under subdivision (a)(1) may submit an application for discretionary grants.

(B) The Commission may seek additional grant funding based on need, if the environmental law enforcement training is mandated, or if there are substantial changes in the law that require the Commission to revise its environmental law enforcement courses, and

(3C) Applicants that have previously received grant funds under the Environmental Enforcement and Training Grant program, and who are not ineligible under subdivision (a)(1) may be eligible for future grant awards.

## Appendix A: Proposed Regulation Order

~~(4) Organizations that have not received previous grants under the Environmental Enforcement and Training Grant program may receive preference over organizations currently or previously having been authorized grant awards.~~

~~(5) Local environmental regulators may request local assistance grants to assist in the enforcement of environmental laws, based upon a showing of substantial need and a lack of other available funding sources.~~

~~(6) The Commission may seek additional grant funding based on need if the environmental law enforcement training is mandated or if there are substantial changes in the law that require it to revise its environmental law courses.~~

### (b) Project Eligibility.

(1) The following projects are not eligible for funding under this Article, and the Secretary shall not consider applications proposing them:

(A) Projects that are fully funded for the proposed grant period, or that are not allowed under international, federal, state or local law;

~~(7B) Applications that propose p~~Projects that are inconsistent with the Agency's statutory authority, or with any provision of this Article are ineligible for funding and will not be evaluated; and

(C) Projects operated or managed by an ineligible entity under subdivision (a)(1).

(2) The following projects are eligible for funding under this Article, and the Secretary may consider applications proposing them:

(A) Projects fitting within the descriptions in Penal Code sections 14306-14308 and 14309.

(3) The Secretary shall consider only one application per applicant for a given project. Applicants may submit more than one application if the applications are for separate and distinct projects or activities.

~~(bc) Criteria. The narrative/work plan will be used as the primary basis for awarding grants. The Secretary will~~shall award grants based upon the following criteria:

~~(1) The Secretary will consider only one application per applicant for a given project. Applicants may submit more than one application if the applications are for separate and distinct projects or activities.~~Whether the application includes all of the information required under section 10015 of this Article;



## Appendix A: Proposed Regulation Order

~~(2) Every application will be evaluated b~~Based on the merit of the proposed project in comparison to other applications, including the overall effectiveness of the project design and the extent to which the project addresses unmet needs, when comparing the narrative/work plan descriptions under section 10015(a)(4) of this Article of the various applications. Past performance may be considered during the evaluation process for those applicants who have received previous grants.; and

~~(3) Whether the applicant and proposed project are eligible to receive funds, as described in subdivisions (a) and (b). California Law requires the Agency to conduct its programs in a manner that ensures the fair treatment of people of all races, cultures, and income levels including minority populations and low-income populations in the State. Receipt of grant awards will be conditioned upon the incorporation of environmental justice objectives as they relate to environmental enforcement into proposed training courses. Training courses should therefore include, as appropriate, one or more of the following components:~~

~~(A) Developing an understanding of environmental justice laws and principles.~~

~~(B) Developing targeted enforcement projects or plans benefiting communities most burdened by pollution sources or impacts.~~

~~(C) Ensuring public participation and information sharing whenever possible.~~

~~(4) Applicants may receive grants to develop a new activity or substantially improve the quality of existing programs upon a showing that the project will have a direct impact on environmental enforcement and/or training activities.~~

~~(5) The Secretary will review and consider the responsiveness of the work plan to the Agency's environmental enforcement and training objectives, the overall effectiveness of the project design, the clarity of the measures of success and the qualifications of project staff.~~

### (ed) Review And Selection Process.

(1) The Secretary will~~shall~~ review applications received from eligible applicants for eligible projects for the criteria in subdivision (c), and then evaluate, compare, and select grant recipients from those applications. Applications ~~will~~shall be screened to ensure that they meet all requirements described in this Article. The Secretary shall consult with the Commission prior to selecting applications for peace officer education and training programs.

~~(42) After all applications are received, the Secretary will~~shall mail acknowledgements to applicants~~receipt.~~

~~(2) After the individual projects applications are reviewed and evaluated the Secretary will compare the applications and make final selections. Additional factors~~

## Appendix A: Proposed Regulation Order

~~that the Secretary may take into account in the selection process include geographic and socioeconomic balance; diverse nature of the projects, cost, and projects whose benefits can be sustained after the grant is completed.~~

~~(3) Once the received applications have been recommended for funding reviewed, the Secretary will may select projects for funding from the applications received. The Secretary shall notify the finalist(s) in writing by mail and request each applicant of the decision on their particular application. Applicants who are selected to receive funding may be required to provide additional information necessary to complete the award process, such as tax identification numbers. The finalist(s) may be required by existing law to complete additional government forms and will be required to execute a grant agreement prior to receiving grant funds.~~

~~(4) Limited funding is available, and the Secretary may not be unable to fund all applications received.~~

~~(5) The Secretary will notify in writing by mail those applicants whose projects are not selected for funding.~~

~~(6) The decision of the Secretary concerning the discretionary grants and peace officer training grants for funds reallocated pursuant to section 10013(b)(1) awarded pursuant to this section is final and not subject to appeal.~~

**Authority: Penal Code section 14300, 14301, 14303, 14306, 14307, 14308, 14309, 14314.**

**Reference: Penal Code sections 14300.**

**Amend** section 10017 of title 27 of California Code of Regulations, to read:

### **§ 10017. ~~Restrictions on Grants~~ Restrictions and Additional Requirements.**

~~(a) Grant funds can only be used for the purposes as set forth in an approved narrative/workplan, and must be consistent with the statutory authority for the award shall not be used for any purpose prohibited by law.~~

~~(b) Grant funds shall cannot be used for lobbying, or to intervenetion in state or federal regulatory proceedings.~~

~~(c) Grant funds cannot be used for matching state or federal funding.~~

~~(d) State law requires aAll grantees to shall certify and assure that they will comply with all applicable state, federal, and local laws, regulations, and requirements before receiving funds under this Article, and shall actually comply.~~

~~(d) The entity contributing funds under section 10013(a) of this Article may designate its contribution for one or more of the purposes set forth in Penal Code sections 14306~~

## Appendix A: Proposed Regulation Order

through 14309, provided that the Secretary may subtract any amount required to satisfy Penal Code section 14314, subdivision (a).

(e) Grant-funded projects shall be completed within the time frames set out in the work plan, unless altered by written agreement of the Agency.

(f) The organization that receives funding pursuant to section 10016(d)(3) of this Article is responsible for the successful completion of the project in accordance with this Article and the respective grant agreement.

(g) Unused grant funds remaining at the end of the fiscal year shall be returned to the Agency or, if approved by the Secretary where good cause is demonstrated, extended for use in the following fiscal year.

(h) Grant recipients must comply with any request for an audit from the Secretary or the Department of Finance. Compliance includes, but is not limited to, the sharing of documents and any other information requested by the Secretary or the Department of Finance to conduct the audit.

**Authority: Penal Code section 14300, 14301, 14303, 14306, 14307, 14308, 14309, 14314.**

**Reference: Penal Code sections 14300.**

**Amend** section 10018 of title 27 of California Code of Regulations, to read:

### **§ 10018. Reporting Requirements for Grant Recipients.**

~~(a) Grant funded projects should be completed within the time frames set out in the work plan.~~

~~(b) The recipient organization is responsible for the successful completion of the project.~~

~~(c) All recipients must~~Each grant recipient shall submit quarterly and final reports to the Secretary within 30 calendar days of the end of each the quarter of implementing a project receiving grant funds pursuant to this Article except the last quarter, or and shall submit a final report to the Secretary within 30 calendar days of the end of the project for final reports. Such reports shall be signed by an authorized representative of the grant recipient, under penalty of perjury, and shall include all of the following, at a minimum:

(1) A description of the progress made toward accomplishing the goals in section 10014 of this Article and the project's objectives, as set forth in the grant recipient's application, by reference to the metrics of success identified in the application, and, if applicable, an explanation of why the project did not achieve one or more of the identified metrics;

Appendix A: Proposed Regulation Order

(2) A certification that the organization that received funding pursuant to section 10016(d)(3) of this Article, and all other organizations anticipated to be involved in the project, remain in compliance with all applicable federal, State, and local laws, and have used the grant funds solely for purposes set forth in the grant agreement; and

(3) Any other information requested by the Secretary.

~~(d) Unused grant funds remaining at the end of the fiscal year may be forfeited.~~

~~(e) The Secretary may require an audit or financial accounting from a grant recipient at any time.~~

~~(f) The Secretary will may collect, review, use, and disseminate grantees' recipients' final reports; as appropriate to serve as model programs and will use the reports to develop information for mandated reports to the Governor and the Legislature.~~

(c) Any failure to submit a required report may result in termination of the grant.

**Authority: Penal Code section 14300, 14301, 14303, 14306, 14307, 14308, 14309, 14314, 14315.**

**Reference: Penal Code sections 14300.**

**Add** section 10019 of title 27 of California Code of Regulations, to read:

**§ 10019. Severability.**

If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this Article is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Article.

**Authority: Penal Code section 14301(b).**

**Reference: Penal Code section 14300(b).**