

1                                   **Forest Legacy Program Procedures, 2011**

2                                   **[Adopted by BOF April 6, 2011]**

3                                   **Title 14 California Code of Regulations**

4

5 **Adopt Chapter 9.9 Articles 1-9**

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25

1 **Chapter 9.9 Forest Legacy Program**

2 **Article 1. Introduction**

3 **Adopt 14 CCR § 1570. Purpose of Chapter.**

4 The purpose of this chapter is to define rules and procedures  
5 necessary for implementation of the California Forest Legacy Program,  
6 hereinafter called the "Program." The Program is a combination of the  
7 requirements of the California Forest Legacy Program Act of 2007 and  
8 the Federal Forest Legacy Program that provides funding and general  
9 guidelines for projects purchased with federal funds.

10 Note: Authority cited: Section 12249, Public Resources Code.

11 Reference: Section 12249, Public Resources Code; and 16 U.S.C. Section  
12 2103 et seq.

14  
15 **Article 2. Definitions and Abbreviations**

16 **Adopt 14 CCR § 1571. Definitions.**

17 Unless the context otherwise requires, the definitions in this  
18 article govern the construction of this chapter.

19  
20 **"Act"** means the California Forest Legacy Program Act of 2000.

21  
22 **"Applicant"** means a landowner who is proposing a project for  
23 inclusion in the Program and is eligible for cost-sharing grants  
24 pursuant to the Federal Forest Legacy Program (16 U.S.C. Section  
25 2103 et seq.) or who is eligible to participate in the California

1 Forest Legacy Program and the operation of the Program, with  
2 regard to that applicant, does not rely on federal funding.

3  
4 "Assessment of Need (AON)" refers to the California Forest Legacy  
5 Program Assessment of Need submitted to the USFS in August, 1995,  
6 and amended in September, 2000.

7  
8 "Baseline documentation" means a depiction or description of the  
9 land on the date the easement restrictions become effective.

10  
11 "Biodiversity" means a component and measure of ecosystem health  
12 and function. It is the number and genetic richness of different  
13 individuals found within the population of a species, of  
14 populations found within a species range, of different species  
15 found within a natural community or ecosystem, and of different  
16 communities and ecosystems found within a region.

17  
18 "Board" means the State Board of Forestry and Fire Protection.

19  
20 "Conservation easement" has the same meaning as found in Chapter  
21 4 (commencing with Section 815) of Title 2 of Part 2 of Division  
22 2 of the Civil Code.

23  
24 "Conversions" is a generic term for land use situations in which  
25 forest lands become used for nonforest uses, particularly those  
uses that alter the landscape in a relatively permanent fashion.

1 "Department (CAL FIRE)" means the Department of Forestry and Fire  
2 Protection.

3  
4 "Director" means the Director of Forestry and Fire Protection.

5  
6 "Eligible Activities" include purchases of land or interests in  
7 land from willing sellers, facilitation of donations of lands or  
8 interests in lands to a qualified and willing grantee, and  
9 establishment and documentation of baseline conditions and  
10 development of a Forest Stewardship Plan.

11  
12 "Federal Appraisal Standards" means the appraisal standards  
13 contained in the publication entitled "Uniform Appraisal  
14 Standards for Federal Land Acquisitions: Interagency Land  
15 Acquisition Conference, 1992".

16  
17 "Federal Forest Legacy Program Implementation Guidelines" means  
18 those guidelines that direct the Program when federal funds are  
19 utilized for eligible activities under the Program.

20  
21 "Forest land" is land that can support 10-percent native tree  
22 cover of any species, including hardwoods, under natural  
23 conditions, and that allows for management of one or more forest  
24 resources, including timber, aesthetics, fish and wildlife,  
25 biodiversity, water quality, recreation, and other public  
benefits.

1 "Forest Legacy Area (FLA)" means areas designated in the AON to  
2 be included in the Program.

3  
4 "Forest Management" means those forest activities, including  
5 timber harvesting, consistent with the purposes of this chapter.

6  
7 "Forest Stewardship Plan" means a multi-resource management plan  
8 prepared for the purpose of achieving long-term stewardship of  
9 forest land. Necessary components are landowner objectives and  
10 actions that will protect and manage soil, water, range,  
11 aesthetic quality, recreation, timber, and fish and wildlife  
12 resources.

13  
14 "Fully Funded Project" means an application that has been  
15 allocated, through a single or multiple grants, the full "asking"  
16 price for the interest in the property.

17  
18 "Landowner" means an individual, partnership, private, public, or  
19 municipal corporation, Indian tribe, state agency, county, or  
20 local government entity, educational institution, or association  
21 of individuals of whatever nature that own private forest lands  
22 or woodlands.

23  
24 "Lands or Interests in Lands" means either an outright fee simple  
25 purchase or an interest in land such as a conservation easement.

1 "Local government" means a city, county, district, or city and  
2 county.

3  
4 "Maximum Sustained Production of High Quality Timber Products  
5 (MSP)" is the production goal in a Timber Harvest Plan, Sustained  
6 Yield Plan or Nonindustrial Timber Management Plan. MSP is  
7 achieved by meeting requirements of Sections 913.11, 933.11, or  
8 953.11 of Title 14 of the California Code of Regulations, or as  
9 otherwise provided in Article 6.8, Subchapter 7 of these  
10 regulations.

11  
12 "Monitoring" means a visual inspection of the property, occurring  
13 no less than once a year, and documented by a written report to  
14 explain the condition of the property at the time of inspection.

15  
16 "Nonfederal Match" means one of three main categories of  
17 activities that meet this requirement: 1) the value of land, or  
18 interests in land, dedicated to the FLP that is not paid for, or  
19 donated to, the federal government; 2) non-federal costs  
20 associated with Program implementation; and 3) other non-federal  
21 costs associated with a grant or other agreement which meets FLP  
22 purposes.

23  
24 "Nonforest Uses" include uses of the land inconsistent with  
25 maintaining forest cover (including, but not limited to,  
activities that result in extensive surface disturbance such as

1 residential subdivisions, commercial development, and mining) and  
2 uses of the land that may be compatible with forest uses as part  
3 of an undeveloped landscape (including cultivated farmland,  
4 pasture, rangeland, open water and wetlands). The first category  
5 is generally excluded from the Federal forest Legacy Program  
6 while the second category should be less than 25% of the total  
7 easement area.

8  
9 **"Nonprofit organization"** means any qualified land trust  
10 organization, as defined in Section 170(h)(3) of Title 26 of the  
11 United States Code, that is organized for one of the purposes of  
12 Section 170(b)(1)(A)(vi) or 170(h)(3) of Title 26 of the United  
13 States Code, and that has, among its purposes, the conservation  
14 of forest lands.

15  
16 **"Non-trust Allotment Land"** means land privately owned in fee  
17 simple by tribal members. Forested Non-trust Allotment Lands are  
18 eligible for the Federal Forest Legacy Program when located  
19 within a Forest Legacy Area (FLA).

20  
21 **"Program"** means the California Forest Legacy Program established  
22 under this chapter.

23  
24 **"Project"** means a proposal(application)to the State for the  
25 acquisition of lands or interests in lands that has been fully or  
partially funded.

1 "State Forest Stewardship Coordinating Committee (SFSCC)" is a  
2 committee, established as a requirement of the Program, to make  
3 recommendations to the U.S. Secretary of Agriculture concerning  
4 those forest lands that should be given priority for inclusion in  
5 the Forest Legacy Program. (Cooperative Forestry Assistance Act,  
6 16 U.S.C. § 2113). Members include State Foresters, or equivalent  
7 State officials, and representatives from the following agencies,  
8 organizations, or individuals: U.S. Forest Service; Natural  
9 Resource Conservation Service; Farm Services Agency; Cooperative  
10 State, Research, Education and Extension Service; local  
11 government; consulting foresters, environmental organizations;  
12 forest products industry; forest landowners; tribal  
13 representatives; land trusts; conservation organizations; the  
14 California Department of Fish and Game; and others determined  
15 appropriate by the Secretary.

16  
17 "Traditional Forest Uses" include activities which provide  
18 various public benefits including forest products, forage, clean  
19 water, fish and wildlife habitat, rare and native plants, public  
20 recreation access, cultural resources, and/or scenic enjoyment.

21  
22 "WCB" means the Wildlife Conservation Board.

23  
24 "Woodlands" are forest lands composed mostly of hardwood species  
25 such as oak.

1 Note: Authority cited: Section 12249, Public Resources Code.  
2 Reference: Sections 700, 730, 4799, and 12200-12292, Public  
3 Resources Code; Section 1320, Fish and Game Code; 16 U.S.C.  
4 Section 2103 et seq.; and 14 CCR Sections 913.11, 933.11 and  
5 953.11.

6  
7  
8 **Article 3. Eligibility.**

9 **Adopt 14 CCR § 1572. Eligibility Criteria.**

10 (a) Every application shall provide sufficient information to enable  
11 the Director to verify the parcel's eligibility for the Program and to  
12 understand the conservation objectives and the parcel's environmental  
13 value or potential to protect forest and aquatic resources.

14 (b) Proposed projects shall meet the eligibility criteria set forth  
15 in this section prior to review pursuant to the ranking criteria set  
16 forth in Section 1573.3. To be eligible for participation, private  
17 forest land parcels proposed for inclusion in the Program shall comply  
18 with all of the following:

19 (1) Be threatened by potential conversion.

20 (2) Be owned by landowners who are willing and interested in selling  
21 or donating lands or interests in lands.

22 (3) Be forested with at least 10-percent canopy cover by conifer or  
23 hardwood species, or be capable of being so forested under natural  
24 conditions.

25 (4) Possession of one or more environmental values of great concern  
to the public and the state:

1           (A) Important fish and wildlife habitat.

2           (B) Areas that can help maintain habitat connectivity across  
3 landscapes.

4           (C) Rare plants.

5           (D) Biodiversity.

6           (E) Riparian habitats.

7           (F) Oak woodlands.

8           (G) Ecological old growth forests.

9           (H) Other key forest types and seral stages that are poorly  
10 represented across California.

11           (I) Lands that directly affect water quality and other  
12 watershed values.

13           (5) Provision for continuity of one or more traditional forest uses,  
14 such as timber harvesting and rangeland livestock production which is  
15 utilized for economic purposes, or habitat maintenance and restoration  
16 that addresses fire hazard, mortality from pests and disease, carbon  
17 storage, restocking of underutilized forests, and reduction of non-  
18 native invasive species.

19           (6) Possession of environmental values that can be protected and  
20 managed effectively through conservation easements at reasonable  
21 costs.

22           (7) Be at least partially within or adjacent to a Forest Legacy  
23 Area.

24           (8) Be available for future timber harvesting, grazing or  
25 recreation (e.g. hunting, fishing, hiking and other similar uses) and

1 not be prohibited from these activities by any statute, previous  
2 conservation easement, or other regulatory requirements.

3  
4 Note: Authority cited: Section 12249, Public Resources Code.

5 Reference: Sections 12250 and 12251, Public Resources Code.

6  
7 **Adopt 14 CCR § 1572.1 Eligible Costs.**

8 The following costs are eligible for reimbursement by state or  
9 federal funding:

10 (a) the purchase price of the lands or interests in lands;

11 (b) the development of the conservation easement;

12 (c) development of the Forest Stewardship Plan;

13 (d) the title report;

14 (e) the survey work necessary to qualify for a certificate of  
15 possession and documentation of the presence or absence of hazardous  
16 material;

17 (f) baseline documentation; and

18 (g) the appraisal costs to the standard dictated by funds used.

19 If federal funds are used for the project the appraisal must meet  
20 Federal Appraisal Standards. Federal funds can not be used for  
21 appraisals of outright donations of easements. All Federal Forest  
22 Legacy Program funds, regardless of the category to which they are  
23 allocated, are subject to a 25% nonfederal match.

1 Note: Authority cited: Section 12249, Public Resources Code.

2 Reference: Section 12242, Public Resources Code; and 16 U.S.C. Section  
3 2103 et seq.

4  
5 **Adopt 14 CCR § 1572.2. Ineligible Costs.**

6 The cost of the following activities shall not be financed by funds  
7 from the Act:

8 (a) appraisals of outright donations of conservation easements; and

9 (b) monitoring.

10  
11 Note: Authority cited: Section 12249, Public Resources Code.

12 Reference: Sections 12260 (f) and 12276, Public Resources Code; and 16  
13 U.S.C. Section 2103 et seq.

14  
15 **Article 4. Application Procedures**

16 **Adopt 14 CCR § 1573. Applications and Content.**

17 Every application shall provide sufficient information to enable the  
18 Director to verify the parcel's eligibility for the Program and to  
19 understand the conservation objectives and the parcel's environmental  
20 value or potential to protect forest and aquatic resources. Landowners  
21 proposing parcels to be considered for inclusion in the Program shall  
22 be required to submit an application, provided by the Director, titled  
23 "California's Forest Legacy Application" (rev. March 2005), found at  
24 [http://www.fire.ca.gov/resource\\_mgt/downloads/2005-](http://www.fire.ca.gov/resource_mgt/downloads/2005-06LegacyApplicationForm.pdf)  
25 [06LegacyApplicationForm.pdf](http://www.fire.ca.gov/resource_mgt/downloads/2005-06LegacyApplicationForm.pdf), and herein incorporated by reference,

1 that includes, but is not necessarily limited to, the following  
2 information:

3 (a) name and address of landowner;

4 (b) location, zoning, acreage, and uses of the property;

5 (c) how title is to be conveyed;

6 (d) landowner goals and objectives;

7 (e) an evaluation of the values of the parcel as they pertain to  
8 riparian and hydrological areas, vegetation type, recreational  
9 opportunities, scenic and cultural resources, forest productivity,  
10 fish and wildlife habitat, threatened and endangered species,  
11 ecological community and connectivity, conversion threats,  
12 acquirability, and manageability;

13 (f) financial information regarding estimated value of the property,  
14 estimated value of the interest to be conveyed to the Program,  
15 additional funding sources, liens and encumbrances;

16 (g) preliminary information on what rights are to be retained or  
17 conveyed within the conservation easement; and

18 (h) the signature of the landowner or legal agent allowing  
19 Department personnel or their agents access to the property, at a  
20 mutually agreeable time, for purposes of verifying eligibility and/or  
21 determining ranking.

22  
23 Note: Authority cited: Section 12249, Public Resources Code.

24 Reference: Section 12250, Public Resources Code.

1 **Adopt 14 CCR § 1573.1. Applications Review.**

2 The Director shall determine whether the application proposed for  
3 inclusion in the Program meets the eligibility criteria prescribed by  
4 Section 1572. The Director shall determine eligibility of an  
5 application within 180 days of the date of receipt, and shall notify  
6 the applicant in writing of approval or disapproval of the application  
7 within 10 days of the decision of the Director. The written notice  
8 regarding a disapproval decision shall state the reason for the  
9 disapproval of the application and what changes, if any, can be made  
10 to warrant a re-submittal.

11 Parcels for which applications have been submitted shall require a  
12 field review by representatives of CAL FIRE and also may require a  
13 field review by representatives of the Department, USDA Forest Service  
14 and/or members of the SFSCC and/or representatives of the WCB and/or  
15 personnel from other agencies as may be necessary to assess the  
16 eligibility and the environmental value of the proposed parcel.

17  
18 Note: Authority cited: Sections 12249 and 12249.6, Public Resources  
19 Code. Reference: Sections 12250 and 12263, Public Resources Code.  
20  
21  
22  
23  
24  
25

1 **Adopt 14 CCR § 1573.2. Disapproval of Application.**

2 The Director may disapprove an application in any of the following  
3 circumstances:

4 (a) The application does not satisfy the eligibility criteria or  
5 selection criteria.

6 (b) Clear title to the specified interest (i.e. conservation  
7 easement or fee simple title) in the land cannot be conveyed.

8 (c) At the time funding was requested, other projects ranked higher.

9 (d) There is insufficient money allocated through the federal or  
10 state process to carry out the acquisition.

11 (e) The applicant requires a government entity other than the  
12 Department of Forestry and Fire Protection to hold title to the  
13 easement, when the primary purpose of said easement would be  
14 conservation of working forest lands (not applicable to lands  
15 primarily conserved for wildlife or recreational purposes).

16 (f) Other relevant considerations may be established by the Director  
17 on a case-by-case basis including, but not limited to, when the parcel  
18 cannot be effectively managed or monitored.

19  
20 Note: Authority cited: 12249, Public Resources Code. Reference:  
21 Section 12264, Public Resources Code.

1 **Adopt 14 CCR § 1573.3. Priority Ranking of Approved Applications.**

2 (a) Each approved application shall be ranked based upon the extent  
3 to which it satisfies the following selection criteria:

4 (1) The nature of the environmental values proposed for  
5 protection, and whether they can be managed and monitored  
6 efficiently and effectively.

7 (2) Whether the parcels are likely to become isolated from other  
8 areas maintained for key forest resources by development on adjacent  
9 parcels.

10 (3) The parcel's proximity to other protected lands.

11 (4) Whether the landowner's management goal for his or her parcel  
12 is compatible with the resource protections he or she is proposing.

13 (5) Whether a nonprofit land trust organization, public agency, or  
14 other suitable organization has expressed an interest in working with  
15 the Department and the landowner to establish and/or monitor the  
16 easement.

17 (6) Whether other sources of funding for easement acquisition,  
18 closing costs, monitoring, and other costs, are available.

19 (b) Where Federal funding for an application is sought, ranking  
20 shall be in accordance with the criteria specified in the Federal  
21 "Project Scoring Guidance" (rev. June 2010), herein incorporated by  
22 reference.

23 (c) Preferential ranking shall be given to those applications with  
24 one or more of the following selection criteria:

1       (1) Applications that have timber harvesting which is utilized for  
2 economic purposes, delivered to mills or cogeneration biomass plants,  
3 and generates revenue and employment.

4       (2) Applications with rangeland forage cover that is utilized for  
5 commercial grazing operations.

6       (3) Applications that produce forest product yields on a  
7 continuous/periodic basis, and have long-term harvesting plans.

8       (4) Applications that harvest and utilize forest products such  
9 that actions reduce fire hazard, mortality from pests and disease,  
10 increases total carbon storage, and provides biomass for purposes of  
11 offsetting fossil fuel use.

12       (5) Applications that have fewer limitations or exclusions to  
13 commercial timber harvesting or rangeland forage grazing.

14       (6) Applications that include restocking of underutilized forests  
15 and improve growth rates on the forest land.

16       (7) Applications with land zoned as Timber Production Zones.

17       (8) Applications which include improvement of livestock forage  
18 conditions and reduction of non-native invasive species that adversely  
19 affect forage conditions and other natural species habitats.

20       (9) Applications with high site productivity for production of  
21 timber or livestock grazing forage.

22       (d) Other relevant considerations may be established by the Director  
23 on a case-by-case basis.

1 Note: Authority cited: Section 12249, Public Resources Code.

2 Reference: Section 12260, Public Resources Code.

3  
4 **Adopt 14 CCR § 1573.4. Submitting Ranked Applications to the United**  
5 **States Forest Service.**

6 Once a year, following written direction from the USDA Forest  
7 Service (USFS), the Director shall rank all accepted applications. The  
8 list of ranked applications shall be submitted to the USFS.

9  
10 Note: Authority cited: Section 12249, Public Resources Code.

11 Reference: Sections 12240 and 12260, Public Resources Code; and 16  
12 U.S.C. Section 2103 et seq.

13  
14  
15 **Adopt 14 CCR § 1573.5. Availability of State Funds.**

16 Projects may be funded with California Forest Legacy Program funds  
17 or other State funding sources if sufficient funds are allocated for  
18 that purpose.

19 The Director shall seek a resolution from the Board when necessary  
20 to enter into agreements with other government agencies or boards to  
21 fund FLP projects.

22  
23 Note: Authority cited: Section 12249, Public Resources Code.

24 Reference: Section 12241, Public Resources Code.

1 **Adopt 14 CCR § 1573.6. Non-funded or Partially Funded Applications.**

2 Applicants whose projects were on the list of ranked applications  
3 submitted to the USFS pursuant to Section 1573.4 but did not receive  
4 funding shall be notified. Non-funded and partially funded  
5 applications will automatically be considered for the next cycle of  
6 funding unless the applicant wishes to withdraw the application.

7 Applications may be amended at this time pursuant to Section 1573.1.

8 Held-over applications and amended eligible applications will be  
9 ranked each year with new applications according to Section 1573.3.

10  
11 Note: Authority cited: Section 12249, Public Resources Code.

12 Reference: Section 12241, Public Resources Code.

13  
14 **Article 5. Conservation Easements**

15 **Adopt 14 CCR § 1574. Conservation Easement Terms and Conditions.**

16 (a) Recreation projects that perpetually prohibit timber harvest  
17 and or grazing are limited to not more than 15% of the timberland and  
18 not more than 15% of the grazing land respectively.

19  
20 (b) Perpetual protections that prohibit timber harvesting are  
21 limited to not more than 15% of the property.

22  
23 (c) Perpetual forest management prescriptions on all of the  
24 timberland on the property, except that timberland preserved pursuant  
25 to (a) or (b) above, will provide for the long term optimization of  
MSP.

1 (d) Perpetual forest management prescriptions that provide for the  
2 long term optimization of MSP shall also contribute to the long term  
3 protection and rehabilitation of watershed function, hydrologic  
4 stability and wildlife habitat.

5 (e) Perpetual protections shall include the prohibition of the  
6 building of structures and roads in any capacity other than for the  
7 potential purposes of:

8 (1) Owner and on-property management & labor housing.

9 (2) Open-space based commercial recreation.

10 (3) Production, processing or value added manufacturing of  
11 forest or rangeland derived products produced on the property.

12 (4) The generation or capture of energy from wind, solar,  
13 or hydroelectric.

14 (5) Placement of cell phone towers.

15 (6) The Director may place restrictions, such as to size  
16 and location, for any or all of the purposes described in (1) through  
17 (5) above and may require the grantor to seek grantee's prior written  
18 approval. When such written approval is required, grantee shall  
19 consider the cumulative impact of all structures and improvements, and  
20 shall not approve such structures or improvements that cumulatively  
21 violate the conservation purpose or materially impair the conservation  
22 values.

23 (f) Perpetual protections shall include the prohibition of the  
24 severance of property rights on the property in any capacity other  
25 than for the potential purposes of:

1           (1) Property line (lot line) adjustments with contiguous  
2 owners of conservation easement property meeting these criteria  
3 herein, and with the express approval of the Conservation Easement  
4 trustees of both properties.

5           (2) Egress and regress right-of-way may be granted to in-  
6 holders or landlocked landowners, where the granting of such rights  
7 will constitute a contribution to the conservation values of the  
8 region.

9           (g) The Director may require the Department of Forestry and Fire  
10 Protection to hold title (be named grantee) to those conservation  
11 easements that are primarily for the purposes of conserving working  
12 forest lands.

13 Note: Authority cited: Section 12249, Public Resources Code.

14 Reference: Section 12249, Public Resources Code; and 16 U.S.C. Section  
15 2103 et seq.

17 **Article 6. Project Administration**

18 **Adopt 14 CCR § 1575. Funded Applications (Projects).**

19           For those projects which have been fully or partially funded, the  
20 Director shall notify the applicant that he/she has been awarded  
21 funding for the project.

22  
23  
24 Note: Authority cited: Section 12249, Public Resources Code.

25 Reference: Section 12262, Public Resources Code.

1 **Adopt 14 CCR § 1575.1. Responsibilities of the Department.**

2 The Director shall send to each approved applicant a Preliminary  
3 Purchase Agreement outlining what, in general, is to be purchased and  
4 the tasks to be completed, and stating that the specific terms will  
5 not be known until the appraisal is complete (if the project is not a  
6 donated easement).

7 The purpose of the Preliminary Purchase Agreement is to define the  
8 nature of the work to be done and who will do it. The Department shall  
9 work with the landowner and/or their representative to obtain items  
10 necessary to complete the project; these may include, but are not  
11 limited to, the preliminary title report, survey for certificate of  
12 possession, hazardous materials assessment, and, where applicable,  
13 development of the conservation easement and appraisal.

14 Except in the case of a full and complete donation of land or  
15 interest in land the following shall apply with regard to land or  
16 interest in land subject to inclusion into the Program:

17 (a) the landowner must be informed of the fair market value of that  
18 sale of the property and that the sale is strictly voluntary;

19 (b) the landowner must be informed that Federal and/or State  
20 appraisal standards must be met;

21 (c) the landowner must be notified in writing that the property will  
22 not be purchased if negotiations do not result in amicable agreement;

23 and  
24  
25

1 (d) the landowner must be informed that payment for lands or  
2 interests in lands shall be no more than fair market value as  
3 determined by the appraisal.

4  
5 Note: Authority cited: Section 12249, Public Resources Code.

6 Reference: Section 12249, Public Resources Code.

7  
8  
9 **Adopt 14 CCR § 1575.2. Landowner Responsibilities.**

10 Applicants whose projects are fully funded (i.e., funds allocated to  
11 the project sufficient to satisfy the landowner's "asking" price, but  
12 not in excess of the appraised value) must complete their project  
13 within two years of the state receiving grant funds for their project  
14 and will be required to:

15 (a) Work with the state to obtain those items necessary to complete  
16 the project; these may include, but are not limited to, the  
17 preliminary title report, survey for certificate of possession,  
18 hazardous materials assessment, and, where applicable, development of  
19 the conservation easement and appraisal.

20 (b) Except in cases of a full and complete donation of land or  
21 interest in land, select and retain an independent real estate  
22 appraiser to determine the value of the lands or interests in lands  
23 which shall be calculated by determining the difference between the  
24 fair market value and the restricted value of the property. This  
25 appraisal must be to State and/or Federal Appraisal Standards and will

1 be subject to review by a qualified review appraiser. CAL FIRE  
2 approval of the appraiser and the agreement on the land to be  
3 appraised is required prior to commencement of appraisal.

4 (c) Convey interest in lands to achieve the land conservation  
5 objectives of the Program.

6 (d) Convey those interests in perpetuity.

7 (e) Prepare and periodically update a management plan, equivalent  
8 to, or better than, a Forest Stewardship Plan.

9 (f) Manage property in a manner consistent with the purposes for  
10 which the land was entered into the Program with no conversion to  
11 other uses unless such uses are specifically allowed within the terms  
12 of the conservation easement, furthermore hunting, fishing, hiking and  
13 similar recreational uses shall be considered to be consistent with  
14 the purposes of the Program.

15 (g) Endow or secure funding for monitoring costs.

16  
17 Note: Authority cited: Section 12249, Public Resources Code.

18 Reference: Section 12262, Public Resources Code; and 16 U.S.C. Section  
19 2103 et seq.

1 **Adopt 14 CCR § 1575.3. Disbursements of Funds.**

2 The Director shall not disburse any funds until:

3 (a) The applicant agrees that any conservation easement acquired  
4 shall be used by the applicant only for the purposes for which the  
5 funds were requested.

6 (b) The conservation easement meets the following minimum  
7 standards:

8 (1) Restrictions to timber management shall be limited to  
9 those that will continue to provide MSP.

10 (2) The property-wide purpose of the easement is to maintain  
11 the property's capacity for producing natural resources and supporting  
12 a range of associated economic activities including traditional uses  
13 such as agriculture, forestry, and recreation.

14 (c) The applicant agrees to restrict the use of the land in  
15 perpetuity.

16 (d) The Director finds that any disposition of the easement is  
17 consistent with, and in furtherance of, the purposes of this chapter,  
18 that the recipient of the easement is qualified to monitor and enforce  
19 the easement, and that the conservation provisions of the easement  
20 remain in effect following the transfer.

21  
22 Note: Authority cited: Section 12249, Public Resources Code.

23 Reference: Section 12245 and 12248, Public Resources Code.  
24  
25

1 Article 7. Easement Monitoring and Management

2 Adopt 14 CCR § 1576. Responsibilities for Monitoring.

3 The Department, or other government entity, or nonprofit land trust  
4 organization acquiring an easement pursuant to this chapter shall  
5 monitor, in perpetuity, that easement in order to assess the condition  
6 of the resources being protected and to ensure that the terms of the  
7 easement are being followed. Entities acquiring easements may also  
8 enter into cooperative agreements for monitoring responsibilities with  
9 another qualified entity.

10 The Department shall ensure that any entity acquiring a conservation  
11 easement acquired pursuant to this chapter has adequate funding for,  
12 or otherwise adequately provides for, easement monitoring pursuant to  
13 this chapter, and is able to enforce the easement if its provisions  
14 are not satisfied.

15 Monitoring shall occur no less than once a year and include at a  
16 minimum: evaluation of overall condition of the property compared to  
17 the condition documented in the Baseline Conditions Report, including  
18 a comparison of observed conditions to both the baseline photos and  
19 the aerial photos; observations of any violations of terms of the  
20 conservation easement; and review of pertinent documentation, e.g.,  
21 timber harvesting documents, inspection reports, mill receipts, etc.

22 A written report with a qualitative assessment of compliance with  
23 the terms of the conservation easement shall be sent by the monitoring  
24 entity to the easement holder within 30 days of visual inspection; any  
25 significant differences from the baseline conditions should be noted.

The easement holder should immediately address any violation of the

1 conservation easement with the landowner. The landowner should have an  
2 opportunity to correct the breach. After a reasonable time period, if  
3 the breach is not corrected, enforcement action may be taken,  
4 including but not limited to legal action. The entity holding the  
5 conservation easement has the responsibility to enforce the  
6 conservation easement.

7  
8 Note: Authority cited: Section 12249, Public Resources Code; and 16  
9 U.S.C. Section 2103 et seq. Reference: Sections 12242, 12275, and  
10 12276, Public Resources Code.

11  
12 end