

BOARD OF FORESTRY AND FIRE PROTECTION

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DRAFT-State Responsibility Area Fee **Report for the Years 2011-2013**

Introduction

AB X1 29 (Chp 8, 1st Extraordinary Session 2011) imposes an annual Fire Prevention Fee to be paid by owners of habitable structures located within State Responsibility Areas (SRA). These are lands where the California Department of Forestry and Fire Protection (CAL FIRE) has the primary financial responsibility for prevention and suppression of fires. CAL FIRE is mandated by the provisions of AB X1 29 to annually transmit to the State Board of Equalization (BOE) the name and address of each person who is liable for and the amount of the Fire Prevention Fee to be assessed. The BOE is mandated to mail the bills and collect the Fire Prevention Fee.

The monies collected, other than that retained by BOE for assessment and collection of the Fire Prevention Fee, are deposited into the State Responsibility Area Fire Prevention Fund within the State Treasury. State law directs that, except for the costs of administration, all monies expended from the Fund are for specified fire prevention activities that benefit the owners of structures within SRA who are required to pay the fire prevention fee.

AB X1 29 requires the Board of Forestry and Fire Protection (BOF) to submit a written annual report to the Legislature on the status and uses of the Fire Prevention Fund. The written report is to include:

- An evaluation of the benefits received by counties based on the number of structures in state responsibility areas within their jurisdictions;
- The effectiveness of the Board's grant programs;
- The number of defensible space inspections in the reporting period;
- The degree of compliance with defensible space requirements;
- Measures to increase compliance, if any;
- Recommendations for statutory changes to the Legislature, if applicable.

Implementation of AB X1 29 began during Fiscal Year (FY) 2011/12.

Bills were sent for the FY 2011/12 Fire Prevention Fee in mid-August 2012. The delay was caused because of the timing of the enactment of AB X1 29 and the



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time needed for the BOE to develop electronic programs and various procedures to handle fee payments and collections. Since then, billing has now reached its expected cycle of occurring during the 1st quarter of the calendar year.

State Responsibility Area

Under Public Resource Code (PRC) Sections 4125-4128, SRA includes state and privately-owned forest, watershed, and rangeland where the State of California has primary financial responsibility for the prevention and suppression of fires. Specific lands are excluded from SRA, even if they include forest, watershed and rangelands, if they are owned by the federal government or are within city boundaries.

By regulation, the State Board of Forestry and Fire Protection (BOF) has more closely defined what lands are to be considered forest, watershed, and rangeland. The details of the regulation are incorporated in a reference document entitled The State Responsibility Area Classification System (October, 2010 edition). See:

http://frap.fire.ca.gov/projects/sra_review/downloads/SRA%20Review/2013%20SRA%20Review/SRA_Classification_System_Update.pdf

- “Forestland” is defined as land that is covered entirely or in part by trees or by trees that can be used for, or are capable, of producing forest products.
- “Watershed” is defined as land that is covered wholly or in part by timber, brush, undergrowth, or grass, whether of commercial value or not. This vegetation protects the soil from excessive erosion, retards runoff of water, or accelerates water percolation. The lands must be sources of water which is available for irrigation, domestic, or industrial use.
- “Rangeland” is defined as land that is principally used or useful for range or forage purposes and is contiguous to forest and watershed lands. Only lands that are adjacent or “contiguous” to other forest and watershed lands are considered. Boundaries for rangelands must be drawn at the first recognizable landmark that can be identified beyond the slope break (bottom of the slope).

Non-federal forest and rangelands in the foothills and mountains are generally included in SRA. Rangeland on flatter slopes in the valley floor is often not included in SRA, especially if it is not adjacent to other watershed lands.

Large areas of land that have been modified for the production of permanent crops like orchards are generally excluded from SRA. Similarly, land that is densely developed with housing units and for commercial use over larger areas



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typically are not included in SRA, if such development results in modifications that have substantially changed the character of the area so that it no longer produces or is capable of producing forest products, forage, or water for domestic, irrigation, or industrial use.

Development alone is not the criteria by which exclusion is determined. One criterion is whether substantial values exist for the production of forest products, forage, or water. Another criterion is if there is a significant threat of fire originating from within the area and spreading to other SRA (considering configuration, topography, location, past fire history). If the area is covered wholly or in part by timber, brush, undergrowth, or grass, whether of commercial value or not, which protects the soil from excessive erosion, retards runoff of water, or accelerates water percolation, and if such lands are sources of water which is available for irrigation, or domestic, or industrial use, then it is likely to be included in SRA.

In total, SRA forms one large area comprised of over 31 million acres with approximately 735,000¹ habitable structures within its boundaries to which CAL FIRE provides a basic level of fire prevention and protection services. Many areas also receive augmented fire protection from local agencies that provide such services. SRA is found in 56 counties of California; two counties, San Francisco and Sutter Counties, contain no SRA.

¹As of May 31, 2014.

Focused Review 2013

The Director and the BOF requested that all Units and Contract Counties provide staff to conduct a Focused SRA Review in 2013. The purpose of the review was to examine areas of SRA that had been identified as part of the Fire Prevention Fee implementation where boundary or other issues may exist. This review was completed and resulted in several corrections to the existing boundary.

SRA Review 2014-2015

Under PRC 4125:

(a) The board shall classify all lands within the state, without regard to any classification of lands made by or for any federal agency or purpose, for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. The prevention and suppression of fires in all areas that are not so classified is primarily the responsibility of local or federal agencies, as the case may be.



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The mandated 5 year review in statute has begun in 2014, and will conclude in 2015.

Background on Implementation

Under PRC Section 4212, the BOF was required to adopt emergency regulations to implement the Fire Prevention Fee on the owners of habitable structures in the SRA. Among other things, AB X1 29 specified that initially the annual Fire Prevention Fee amount could not exceed \$150 per habitable structure. However, the law also allows the fee to be adjusted annually beginning on July 1, 2013, based upon the Consumer Deflator Index, which may raise the fee in the future. The law also sets out the general elements of a process for owners of habitable structures to appeal their fees.

The BOF adopted emergency regulations to implement the Fire Prevention Fee that became effective January 23, 2012. The BOF extended the emergency regulations twice and adopted "permanent," or non-emergency, regulations on December 5, 2012.

The regulations provide the definition of terms that are required to determine and administer the Fire Prevention Fee, including the meaning of "habitable structure" in SRA. The BOF set the fee amount at \$150.00 per habitable structure in SRA, but allowed a \$35 credit for each habitable structure that is within the boundary of a legally recognized local agency that provides fire protection services. The list of owners of habitable structures who are to receive a billing for the fee is to be prepared by CAL FIRE or with the assistance of a Designated Fee Administrator (DFA). The DFA is a consultant selected by CAL FIRE that has experience in preparing and administering fire district benefit assessments, benefit fees, or special taxes.

PRC Section 4220 et seq. establishes an appeals process for the aforementioned fee. The BOF emergency regulations add details to the appeal process for habitable structure owners who are assessed the Fire Prevention Fee. Consistent with provisions of AB X1 29, owners of habitable structures in SRA must appeal within 30 days from the date on their billing. Examples of specific issues that may be considered upon appeal include, but are not limited to, the location of the structure in SRA, the number of applicable habitable structures and the related fee amount calculated.

CAL FIRE and the DFA prepare a list of owners of habitable structures in SRA based upon, among other things, annual information from county tax assessors and from the California Department of Housing and Community Development. The list is forwarded to BOE by the required date for the generation of bills.



Benefits to Feepayers

ABx1 29 contains the legislative declaration that, "...owners of structures within the State Responsibility Areas [sic] receive a disproportionately larger benefit from fire prevention activities than that realized by the State's citizens generally." As described above, the SRA is one large area for which CAL FIRE has responsibility for wildland fire prevention and protection.

In most counties with SRA, CAL FIRE is organized around Administrative Units; some Units are responsible for just one county, but many Administrative Units' area of responsibility spans over multiple counties. Pursuant to PRC 4129, there are six counties – Marin, Ventura, Kern, Santa Barbara, Los Angeles, and Orange – where CAL FIRE pays the counties to provide basic fire prevention and fire suppression services to SRA. Moreover, CAL FIRE's statewide operations are organized into two regions – the Northern and Southern Regions.

In Fiscal Years 2011-12 to 2013-14, over \$100 million of fire prevention activities have been or will be conducted on the SRA. A detailed listing of these activities is included in the attached tables. These activities include:

- Fire prevention programs – These include development and implementation of the statewide Strategic Fire Plan, fire engineering, law enforcement, and fire prevention education. Typical examples of these types of activities include, but are not limited to, arson investigation, public education and inspections related to defensible space and ignition resistant buildings;
- Vegetation management – The program is focused on the use of prescribed fires or mechanical means to address wildland fire hazards and other resource management issues on SRA lands;
- Fire hazard and fire severity mapping – This involves data collection and mapping of assets-at-risk from wildfire, fuel hazards, fire history and other factors that contribute to wildfire hazard and risk;
- Contracts for fire prevention – This occurs where CAL FIRE pays the counties of Marin, Kern, Santa Barbara, Ventura, Los Angeles and Orange for fire prevention activities on SRA;
- Defensible space – This includes inspections performed by on duty fire fighters (on engine companies) and prevention personnel and dedicated seasonal defensible space inspectors;
- Public education activities performed by on duty firefighters and fire prevention personnel;



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- Defense improvement projects (e.g., fire and fuel break construction) done by CAL FIRE Conservation Camp inmates;
- Input into land-use planning at the local level through the implementation of SB 1241 (Kehoe) Land use: general plan: safety element: fire hazard impacts;
- California Conservation Corps. projects that benefit owners of habitable structures on the SRA.

The Fire Prevention Fee revenues are intended to address the cumulative risk across all of SRA and to fund fire prevention services provided by CAL FIRE associated with reducing this risk. Fire prevention program staff is located throughout the State (Sacramento, the Regions, Units, and the Contract Counties). Through the *2010 Strategic Fire Plan for California*, the Board laid out the policy direction for CAL FIRE to follow, and all of the fire prevention activities conducted in CAL FIRE are driven by this document.

Grant Program Funding

The 2014 May Revision contained a request from the Administration for a one-time appropriation of \$10 million for a local grant program. The proposal is for the Department to administer the grant program pursuant to Public Resources Code Section 4214 (d). The Department will develop the grant program and related grant criteria if the request is approved. If approved, the 2014-15 will be the first Fiscal Year in which the local grant program has been funded.

Defensible Space Inspections Fiscal Year

The table below shows the number of defensible space inspections in the 2011-12 and 2012-13 Fiscal Year

North Region	Totals FY 11-12	Totals FY 12-13
Defensible Space Inspections *	13,294	13,746
Number of Violations	2,197	2,494
Citations issued	8	0



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South Region	Totals FY 11-12	Totals FY 12-13
Defensible Space Inspections *	93,088	135,926
Number of Violations	8,220	6,772
Citations issued	1,647	890
Statewide	Totals FY 11-12	Totals FY 12-13
Defensible Space Inspections*	106,382	149,672
Number of Violations	10,417	9,266
Citations issued	1,655	890

The purpose of Defensible space inspections is two-fold; first to encourage compliance with the law, and (2) to educate consumers on how to comply. CAL FIRE will issue a violation as part of this process to assist with bringing homeowners into compliance. Only after these efforts fail will a citation be issued. As additional SRA fee funding has become available, there has been an increase in the number of properties being inspected, and CAL FIRE has held public meetings to explain the purpose of these inspections as well as providing educational materials to assist homeowners.

Recommendations to the Legislature

AB 2048 (Dahle) Fire Prevention Fees: State Responsibility Area Fees makes a number of technical changes to the enabling statute for the Fire Prevention Fee. Specifically the bill makes the following changes:

- Defines the term “habitable structure.”
- Specifies the person liable for the Fee and define “person.”
- Defines “owner of a habitable structure” and codify the date of ownership that is utilized to determine the person liable for the Fee.



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- Eliminates the requirement for the Board to annually increase the Fee by the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States and make this instead permissive.
- Gives the Board the explicit authority to allow an exemption from the Fee if habitable structures are destroyed by a natural disaster during the year in which the Fee is due.
- Changes the date by which the Board must submit a report on the status and uses of monies collected from the Fee to the Legislature from January 1 to January 31.
- Allows the Department, its agent, or the Board of Equalization to review late petitions for redetermination if there is an error in the amount or the application of the Fee.
- Eliminates the requirement to appeal to three State agencies and instead require only one appeal to the Department or its designee.
- Lowers the 20% late payment penalty.

CAL FIRE has an approved support position on this bill. The Board recommends a support position.

Respectfully Submitted

A handwritten signature in blue ink that reads "George D. Gentry".

George D. Gentry
Executive Officer

Fire Prevention Fees Report to the Board of Forestry and Fire Protection

June 2014

CAL FIRE Program Expenditures by Year (dollars in thousands)	2012-13[a]	2013-14[b]	2014-15[c]
Statewide Fire Prevention Activities (including Contract Counties) Unit Fire Prevention Bureaus, Law Enforcement, Education, Pre-Fire Engineering	27,323	29,630	34,451
Vegetation Management Program (VMP) Fuel Treatment on private or public lands to improve fire resilience and community protection	1,739	7,537	8,255
Defensible Space Inspections Inspection of homes in the SRA for education and compliance with PRC 4290 and 4291	3,008	11,070	11,812
Safety Elements Input to Local General Plans (SB 1241) Assistance to Local Government for fire hydrant placement, emergency vehicle access, adoption of Fire Hazard Severity Zone, fire resistive construction and building standards	0	4,823	4,841
State Fire Environment Mapping Assess the amount and extent of the State's forests and rangelands, analyze their conditions and identify alternative management and policy guidelines.	1,104	1,109	1,198
Local Assistance Grants To be used in locations where the effects of drought, fuel loading, and structure development converge			10,000
CAL FIRE Conservation Camp Fire Prevention Work Efforts put forth by the CAL FIRE Camps and camp personnel as part of CAL FIRE's prevention and VMP activities in the SRA	3,206	3,073	4,039
California Conservation Corps (CCC) Project Work Efforts put forth by the CCC crews as part of fire prevention activities in the SRA	1,488	1,523	1,745
Total Statewide Prevention Work	37,871	58,765	76,341

[a] Actual
 [b] Estimated
 [c] Budgeted

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June 2014

Administration Costs by Year (dollars in thousands)	2012-13[a]	2013-14[b]	2014-15[c]
CAL FIRE	5,939	7,654	6,624
Board of Equalization	6,524	6,524	8,882
Other Statewide Assessments	717	305	60
Total Administration Costs	13,180	14,396	15,566

[a] Actual
[b] Estimated
[c] Budgeted

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June 2014

Fire Prevention Fund Condition Statement	2011-12[a]	2012-13[a]	2013-14[b]	2014-15[c]
Starting Balance (dollars in thousands)	0	24,739	48,666	51,709
Revenue	74,739	74,978	76,204	76,204
Total Statewide Prevention Work (from Page 1)	50,000	37,871	58,765	76,341
<u>Administration Costs by Year (from Page 2)</u>		<u>13,180</u>	<u>14,396</u>	<u>15,566</u>
Total Expenditures	50,000	51,051	73,161	91,907
Ending Balance	24,739	48,666	51,709	36,006

[a] Actual
 [b] Estimated
 [c] Budgeted