

EXHIBIT I

Fire Prevention and Law Enforcement

1. Fire Prevention

State personnel may conduct applicable fire prevention activities on FRA within State DPA. Federal personnel may conduct applicable fire prevention activities on SRA within Federal DPA, provided such activities are within their authorities. The specific responsibilities for these activities will be identified in the Operating Plan (AOP).

The agency with DPA responsibility may conduct applicable fire prevention activities on that DPA¹. These activities may include:

- Writing fire permits (e.g., campfires, dooryard and other burn permits)
- Providing burn project notification (e.g., vegetation management, fuel reduction)
- Conducting fire prevention inspections required by Federal or State law (see Voluntary Fire Warden, Section 4)
- Notifying adjacent protection units of restrictions and closures
- Annually submitting ignition and inspection data

A. Fire Permits

The federal agency personnel with Voluntary Fire Warden (VFW) authority within their DPA responsibility, or local fire protection district authorized by the Director, may issue fire prevention-related permits such as campfire, dooryard, etc. (this does not include vegetation management program and brush land conversion burning on SRA in Federal Agency DPA). The writing of the permits will be addressed in the AOP to address local burning requirements and procedures.

B. Burning Projects

Federal agencies will consult the State when burning projects are being planned and conducted

¹ This is contingent on the statutory authority to provide reciprocal fire prevention activities, currently permitted under the following statutes: 42 USC § 1856a, 43 USC § 1701 (permits State and Federal agency personnel to act on behalf of each other for fire suppression and prevention duties).

on FRA in State DPAs. The State will consult with Federal agencies when burning projects are being planned and conducted on SRA lands in Federal DPAs.

The State will advise the Federal Agency of active Timber Harvest Plans in the Federal Agency's DPA.

C. Fire Prevention Inspections

The agency with DPA responsibility may conduct fire prevention inspections required by Federal or State law (e.g., defensible space, power line and railroad clearance, spark arrestor, or fire safety) as described in the AOP, based on the individual employees' authorities, including VFW's.

D. Restrictions and Closures

State and federal personnel in a protection unit will immediately provide notice to and consult with adjacent protection unit personnel when any protection unit plans, activates, or deactivates any suspension, closure, or restriction.

E. Ignition and Inspection Data

The Federal agencies will provide the State with fire ignition data and fire prevention inspection activity data for SRA lands for the preceding year by February 1st each year. The data will be forwarded to the agencies' respective state headquarters. The State will provide ignition data for the preceding year, by February 1st each year. The data will be forwarded as requested by federal agencies.

2. Origin and Cause Fire Investigation

The agency with DPA responsibility may conduct applicable fire investigation activities within their DPA. These activities may include:

- Preserving the general origin area
- Conducting origin and cause investigations
- Origin and cause investigation reporting
- Providing immediate notification of any civil or criminal case potential

A. Preserving Origin and Cause Area

As initial action is taken on a fire, the protecting agency is responsible to protect and preserve the suspected general origin area of the fire until appropriate investigative personnel arrive on scene. Each agency will document the action. Each agency will submit a copy of their agency fire report (i.e., FS-5100-29, CAL FIRE 7716, etc.) to the agency with original jurisdiction within 14 days of the fire's start.

B. Conducting Fire Origin and Cause Investigations

Authorized Federal agency personnel may conduct an origin and cause determination of any wildfire originating in federal DPA.^{2 3 4} State agency personnel may conduct an origin and cause determination of any wildfire originating in State DPA. Agency personnel (administrators) may decide that a joint investigation is appropriate. After consulting with each other, authorized Agency administrators will determine whether the agency with original jurisdiction needs to assume the full responsibility for the overall investigation.

The State acknowledges the limitations and authorities on non-sworn law enforcement Federal personnel in conducting origin and cause determination investigations upon SRA within Federal DPA, specifically 43 USC 1733, 36 CFR 261.1(a)(2) and (a)(3), and 25 CFR 163.28(b). The State recognizes sworn Federal Law Enforcement (LE) personnel may be requested to conduct investigations upon SRA within Federal DPA, subject to the following conditions (See Section 3, Law Enforcement Specific Activities, below):

- Federal LE personnel are available
- Available Federal LE Personnel are qualified and trained to perform origin and cause determinations and fire investigations
- Federal LE personnel have been designated Voluntary Fire Wardens (VFW-LE) by the Director

Both State and Federal agencies shall assume the costs of the origin and cause investigation within their respective DPA's and are responsible for ordering the appropriate investigators through their respective resource ordering points, requesting an available, qualified investigator who has jurisdiction to conduct the origin and cause investigation. If the request is filled by an agency which does not have DPA responsibility, the request will be filled as assistance by hire with a corresponding request and order number originating from the requesting agency with DPA responsibility.

² Pursuant to 43 USC 1733, Bureau of Land Management Law Enforcement may conduct origin and cause determination on DPA.

³ Per 36 CFR 261.1(a)(2) and (a)(3), Forest Service personnel have legal authority to be present off NFS lands when an act or omission affects, threatens, or endangers "property of the United States administered by the Forest Service" or "a person using, or engaged in the protection, improvement or administration of National Forest System...". When a wildland fire has been categorized as "controlled" or "out", the Forest Protection Officer (FPO) will cease the Origin and Cause determination and turn it over to sworn LEI personnel. FPOs may conduct Origin and Cause determinations for wildland fires that affect, threaten, or endanger NFS lands when:

- FAM completes a threat analysis on the wildland fire and determines the fire affects, threatens, or endangers NFS property.
- FAM provides notification of the wildland fire to the LEI Patrol Captain and whether an FPO has been assigned to conduct the origin and cause determination.
- The FPO has successfully completed all required FPO training and maintains FPO certification.
- The FPO has successfully completed all required INVF training and maintains INVF certification.
- The FPO has received Voluntary Fire Warden (non-peace officer) designation from the CAL FIRE Unit Chief.

⁴ Pursuant to 25 CFR 163.28(b), Bureau of Indian Affairs may conduct origin and cause determination on DPA.

C. Origin and Cause Reporting

The agency with DPA responsibility will be responsible for reporting both SRA and FRA wildland fires within their respective reporting systems (e.g., CAIRS for the State).

After a fire investigation is concluded, un-redacted fire investigation reports will be provided to the agency with jurisdictional responsibility of the fire. Fire investigation reports for fires burning upon both State and Federal DPA, resulting in a cost sharing agreement, or where either State or Federal property is damaged by a fire, the investigation report shall be provided to the agency's respective unit or forest headquarters law enforcement personnel, via channels identified in the AOP.

- Each party agrees the fire investigation report includes information that the investigating agency may not otherwise disclose to the general public under State and Federal law, which includes, but it is not limited to, information exempt under the California Public Record Act (PRA), Information Practices Act (IPA), Confidential Information identified in Government Code, Section 6254, Freedom of Information Act (FOIA) (5 USC 552) and/or the Records Security Act (RSA) (5 USC 552(a)).
- The receiving agency is willing to receive disclosure of the Information, which includes Confidential Information, and the investigating agency wishes to disclose the Information, without waiving any privileges or protections that may apply to the disclosure of the Confidential Information, pursuant to the following terms:
 - “Confidential Information” means information designated by the investigating agency which is restricted, prohibited or privileged by State or Federal law. Confidential Information includes, but is not limited to, information exempt from disclosure under the PRA, IPA, Government Code sections 6250-6255, FOIA, RSA, information exempt from disclosure under HIPAA, financial, appraisal, statistical, personal, engineering, technical, and other data and information related to operations or planning as well as designated information provided to the investigating agency by non-employee agents.
 - Agency personnel allowed access to Confidential Information shall be limited to those persons with a demonstrable business need for such access.
 - The receiving agency shall take all necessary measures to protect Confidential Information provided by the investigating agency and shall impose all the requirements of this agreement on all of their respective officers, employees, and agents with regards to access to the Confidential Information. In the event the receiving agency experiences a security breach involving Confidential Information covered by this Agreement, the receiving agency agrees to notify the investigating agency within ten (10) business days of such breach.
 - Consistent with the provisions of the PRA, IPA, Government Code section 6254, FOIA and/or RSA, each agency agrees to treat information and documentation exchanged pursuant to this Agreement as Confidential Information. Any exchange of Confidential Information between the parties shall not constitute a “waiver” of any exemption under the PPA, IPA, and Government Code section 6254, FOIA and/or RSA. Any Confidential Information obtained by the Parties shall only be used for purposes which are consistent with existing law. Any Party receiving a PRA or FOIA request shall be the Party that determines whether the disclosure of

Confidential Information in its possession is required. Should the receiving agency plan to release information deemed “Confidential” covered by this Agreement, the receiving agency will notify the investigating agency in writing of such intent, no less than ten (10) business days prior to such release. Upon notification of such intent, investigating agency shall promptly provide receiving agency any arguments supporting non-disclosure.

D. Civil or Criminal Case Potential

Each agency will notify the other within one week (7 calendar days) when there is potential for a fire suppression cost recovery case or a trespass case on a fire occurring on lands under the jurisdiction of the other agency or upon which the case is based upon the other investigation report.

3. Law Enforcement Specific Activities

All Federal and State law enforcement personnel associated with the agencies signatory to this agreement are encouraged to cooperatively train and to gain a familiarity with each organization and methodologies. Joint law enforcement operations pertaining to the enforcement of forest and fire laws are encouraged.

The agency with DPA responsibility will conduct applicable law enforcement duties when State or Federal law, and an agency’s policy, allows and requires that the activity be conducted by law enforcement personnel.

The Cooperative Law Enforcement Agreement between CAL FIRE and the Pacific Southwest Region, see Attachment 1 of this Exhibit, designates USFS LE personnel (officers, rangers, and special agents) as Voluntary Fire Wardens (VFW-LEs) and affords those personnel the law enforcement authorities of peace officers with the purpose of enforcing the State’s forest and fire laws.

State LE personnel may conduct applicable law enforcement activities upon FRA within State DPA and enforce applicable State laws. Federal personnel may conduct applicable law enforcement activities on SRA within Federal DPA and enforce applicable State forest and fire laws. The specific responsibilities for these activities will be identified in the Operating Plan.

Federal and State LE personnel will perform law enforcement duties on SRA/FRA within their respective DPAs when LE personnel have the requisite authority, jurisdiction, and availability.

Anticipated activities include, but are not limited to:

- Custodial arrests for actions related to a wildland fire investigation or forest and fire law regulation action.
- Issuances of citations for forest and fire law violations.

- Fire investigation or forest and fire law regulation action that requires armed personnel.

Federal LE personnel initiating criminal actions on behalf of the Director will provide the State with information necessary for the State Law Enforcement Report (LE-30). State personnel will create annual reports of criminal actions they initiate for violations on FRA within State DPA and provide them to the Federal LE agencies. The information shall be provided to the agency's respective unit or forest headquarters law enforcement personnel, via channels identified in the OP.

If LE is required upon SRA/FRA within the other's DPA, but no LE is immediately available from the agency having DPA responsibility, the agency with DPA responsibility shall immediately inform the jurisdictional agency. The jurisdictional agency will provide an estimated time as to when the soonest law enforcement officer will be available and responding.

4. Voluntary Fire Warden Designation

The Director has the responsibility for enforcing State forest and fire laws on the lands of California. To that end, the Director may appoint any United States Forest Service employee within this State as a Voluntary Fire Warden. The Director may also appoint, in such number and localities as he/she deems wise, public-spirited citizens to act as Voluntary Fire Wardens. Those appointed shall have all the powers given to Fire Wardens by the Director.

The Director may appoint Voluntary Fire Wardens with powers conferred by law upon peace officers listed in Section 830.37 of the California Penal Code (PC); provided, however, that the primary duty of the peace officer shall be the enforcement of forest laws and regulations (PRC 4156). Alternatively, the Director can appoint Voluntary Fire Wardens who are not afforded peace officer powers. This creates the possibility for two distinct classifications of Voluntary Fire Wardens, designated within this exhibit as VFW for non-peace officers and VFW-LE for those afforded limited peace officer powers for the enforcement of forest and fire laws pursuant to PC 830.37.

Federal agency personnel with SRA responsibility within their DPA may be appointed as VFWs or VFW-LEs as described below.

A. Voluntary Fire Wardens without State Law Enforcement Authority

Non-sworn Law Enforcement, Federal, or Fire Prevention personnel may be designated representatives of the Director as Voluntary Fire Wardens (VFWs) who are not afforded peace officer authorities. The purpose of this designation is for the performance of the fire prevention inspections and fire investigation duties, where appropriate and authorized, on SRA within the Federal DPA.

To be appointed as a VFW, the candidate must have completed all required INVF training and

maintain INFV certification. Additional qualifications for candidates may be subject to current and future attachments to this agreement.

By April 15th, Federal agencies will submit to the appropriate State Unit Chief the names of non-sworn law enforcement personnel and volunteers who are trained to perform the fire prevention responsibilities for which VFW designation is sought. The State Unit Chief will respond in writing with a list of the approved designees.

B. Voluntary Fire Wardens with State Law Enforcement Authority

Federal Law Enforcement personnel may be designated representatives of the Director as Voluntary Fire Wardens (VFW-LE), who are afforded peace officer authorities. The purpose of this designation is for the performance of the fire prevention and fire investigation duties, where appropriate and authorized, listed in this Exhibit on SRA within the Federal DPA.

To be appointed as a VFW-LE, the following shall apply:

- The nominated law enforcement officer shall be in good standing with the Federal agency by which he/she is employed.
- The officer shall be current on all required agency training.
- The officer must meet the training requirements set forth in California Penal Code § 832.

Law enforcement officers with the USFS are appointed VFW-LE pursuant to the Cooperative Law Enforcement Agreement between CAL FIRE and the USFS Pacific Southwest Region, Attachment 1 to this exhibit.

For Federal law enforcement officers, not employed by the USFS, Federal agencies will submit to the appropriate State Unit Chief, by April 15th, the names of law enforcement personnel who are trained to perform the fire prevention responsibilities for which VFW-LE designation is sought. The State Unit Chief will respond in writing with a list of the approved designees. Alternatively, Federal agencies may develop, and the Director may approve, a similar agreement as Attachment 1 to this exhibit.

Attachment 1

Cooperative Law Enforcement Agreement Between the California Department of Forestry and Fire Protection and the Pacific Southwest Region of the USDA Forest Service

The Director (the "Director") of the California Department of Forestry and Fire Protection (the "Department") and the Pacific Southwest Region of the United States Department of Agriculture, Forest Service (the "Forest Service") enter into this Cooperative Law Enforcement Agreement ("Agreement"). California Penal Code § 830.37(c); California Public Resources Code § 4151; 16 USC §§ 551a, 553, and 559g(c); and 36 CFR § 211.3 provide the Director and the Forest Service authority to enter into this Agreement.

Whereas, the Director has responsibility for enforcing state forest and fire laws on the lands of California.

Whereas, the Forest Service has responsibility for administering, managing, and protecting National Forest System lands in California.

Whereas, California Public Resources Code § 4151 authorizes the Director to designate Forest Service Special Agents and Law Enforcement Officers as Voluntary Fire Wardens.

Whereas, California Public Resources Code § 4156 confers upon Voluntary Fire Wardens the power to enforce forest laws and regulations and state fire laws and regulations.

Whereas, the Director and the Forest Service agree that it is mutually beneficial for Forest Service Special Agents and Law Enforcement Officers to exercise the powers of a Voluntary Fire Warden. The Voluntary Fire Warden authority will help the Forest Service protect National Forest System lands and State Responsibility Area lands within the Forest Service's Direct Protection Area from wildland fire events and allow for more efficient enforcement of forest and fire laws. The Voluntary Fire Warden authority will also increase the coordination and collaboration between the Department and the Forest Service.

Therefore, the Director authorizes all Forest Service Special Agents and Law Enforcement Officers to exercise the powers of a Voluntary Fire Warden in the State of California. Forest Service Special Agents and Law Enforcement Officers who exercise the powers of a Voluntary Fire Warden may enforce forest laws and regulations and state fire laws and regulations on National Forest System lands and on State Responsibility Area lands within the Forest Service's Direct Protection Area when reasonably necessary to protect National Forest System lands. Forest Service Special Agents and Law Enforcement Officers who exercise the

powers of a Voluntary Fire Warden may also perform fire origin and cause investigations on State Responsibility Area lands within the Forest Service's Direct Protection Area when reasonably necessary to protect National Forest System lands. This appointment is made with the following conditions:

1. Forest Service Special Agents and Law Enforcement Officers who exercise the powers of a Voluntary Fire Warden must meet the training requirements set forth in California Penal Code § 832.
2. The Director and the Department assume no liability for Forest Service Special Agents and Law Enforcement Officers who exercise the powers of a Voluntary Fire Warden.

This Agreement will remain in effect for 6 years from date of the last signature on this agreement and may be amended only upon the written mutual consent of the Director and the Forest Service Regional Special Agent-in-Charge. This Agreement may be terminated by either the Director or the Forest Service Regional Special Agent-in-Charge for any reason upon 30-days written notice or immediately upon showing of good cause.

The designated representative for the Department in this Agreement is the Director; the designated representative for the Forest Service is the Regional Special Agent-in-Charge. All notices concerning this Agreement will be sent to the Director and the Regional Special Agent-in-Charge.