

**CALIFORNIA MASTER COOPERATIVE WILDLAND FIRE MANAGEMENT AND STAFFORD ACT RESPONSE
AGREEMENT**

EXHIBIT I

Fire Prevention and Law Enforcement

I. Fire Prevention Activities

The agency with DPA responsibility will conduct applicable fire prevention activities on that DPA¹. These activities will 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
- Notifying adjacent protection units of restrictions and closures
- Submitting ignition and inspection data, annually
- Preserving and documenting preliminary fire origin and cause area
- Providing immediate notification of any civil or criminal case potential
- Conducting fire origin and cause determinations²

Since many of these activities require Voluntary Fire Warden (VFW) designation from the State, Federal agencies will submit to the appropriate State Unit Chief, the names of prevention personnel who are trained to perform the fire prevention activities for which VFW designation is sought, no later than April 15th every year. The State Unit Chief will respond in writing with a list of the approved designees no later than May 15th every year.

The responsibilities for fire prevention activities on SRA within Federal DPA and on FRA in State DPA must be identified in the local Annual Operating Plan, and must follow the details specified below. Agencies shall utilize the local/sub geographic area Annual Operating Plan process to document all the designations of responsibility.

■ Fire Permits

The federal agency with DPA responsibility, or local fire protection district authorized by the Director, will issue permits for campfire and dooryard premises burning (this does not include vegetation management program and brush land conversion burning on SRA in Federal Agency DPA). State personnel will issue all other required fire permits.

¹ This is contingent on the statutory authority to provide reciprocal fire prevention activities, currently permitted under the following statutes: 42 USC § 1856, 43 USC § 1701 (permits state and federal agency personnel to act on behalf of each other for fire suppression and *prevention* duties); California Public Resources Code (PRC) § 4119 (permits state agency personnel to conduct fire prevention activities statewide); § 4151 (permits federal agency personnel to conduct fire prevention activities on SRA in federal DPA if they have been designated as Voluntary Fire Wardens).

² For USFS, only Law Enforcement personnel can conduct origin and cause determinations on DPA.

■ Burning Projects

Permits for burning slash on SRA lands within Federal Agency DPAs covered by a Timber Harvesting Plan will be issued only with the approval of the State employee supervising the plan. The State will advise the Federal Agencies of active Timber Harvest Plans in their DPAs. Channels for information flow will be detailed in the Annual Operating Plan.

The Federal Agencies will consult the State when burning projects are being planned and conducted on FRA in State DPAs. The State will consult the Federal Agencies when burning projects are being planned and conducted on SRA lands in Federal DPAs. Provisions for joint planning for burning projects shall be included in the Annual Operating Plan.

■ Fire Prevention Inspections

The agency with DPA responsibility will conduct fire prevention inspections required by federal or state law (e.g., defensible space, power line, and railroad clearance).

■ 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.

■ 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.

■ Preserving Origin and Cause Area

As initial action is taken on a fire, the protecting agency is responsible to protect and preserve the presumed origin and cause area of the fire until appropriate investigative personnel arrive on scene. Each agency will document the action and the most likely general or statistical cause by completing its agency's wildland fire report (e.g., FSH 5109, CAL FIRE Handbook 7716). Each agency will submit a copy of the report to the agency with original jurisdiction within 14 days of the fire's start.

■ Civil or Criminal Case Potential

Each agency will notify the other within one week (7 calendar days) when there is potential for a criminal case and/or cost recovery on a fire occurring on lands under the jurisdiction of the other agency. All Federal agency personnel initiating criminal actions pursuant to their VFW or VFW-PO status will submit information necessary for the State Law Enforcement Report (LE-30). Likewise, the State will make annual reports of criminal actions it initiates for violations on FRA within State DPAs.

Enforcement data will be forwarded to the agency's respective unit or forest headquarters via channels identified in the Annual Operating Plan.

■ Conducting Fire Origin and Cause Determinations

Authorized Federal agency personnel will conduct an origin and cause determination of any wildfire originating in federal DPA. State agency personnel will conduct an origin and cause determination of any wildfire originating in state DPA. Agency personnel (administrators) may decide that a joint investigation under Unified Command 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.

II. Law Enforcement Specific Activities

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 a peace officer.

USFS LE personnel will perform law enforcement duties including conducting fire origin and cause determinations, and civil or criminal case potential notification on SRA within Federal DPA only when, USFS LE personnel have the requisite authority, jurisdiction, availability, and USFS LE personnel have been designated Voluntary Fire Warden-Peace Officer (VFW-PO) by the CAL FIRE Director.

The responsibilities for fire law enforcement activities on SRA within Federal DPA and on FRA in State DPA and agencies' intent will be identified in the local Annual Operating Plan. These activities will include, but are not limited to:

- Taking arrest or control actions related to a wildland fire investigation or forest and fire law regulation action.
- Fire investigation or forest and fire law regulation action that requires armed personnel.

Since these activities require VFW-PO designation from the State,³ Federal agencies will submit to the appropriate State Unit Chief the names of peace officers who are trained to perform the fire prevention activities for which VFW-PO designation is sought, no later than April 15th every year. The State Unit Chief will respond in writing with a list of the approved designees no later than May 15th every year. If peace officer status is required, but no peace officer is immediately available due to a prioritized

³ This is contingent on the statutory authority to provide reciprocal fire prevention law enforcement activities, currently provided under the following statutes: California Penal Code 830.2(g) (provides state agency peace officers with statewide jurisdiction); § 4156 (permits federal agency personnel to conduct fire prevention law enforcement activities on SRA in federal DPA if they have been designated as a Voluntary Fire Warden – Peace Officer; California Penal Code 830.8 (specifically empowers federal law enforcement officers and special agents designated as VFW-PO to enforce state forest and fire laws, except timber harvesting laws under the forest practice act. See e.g., the Cooperative Law Enforcement Agreement between Cal-Fire and the Pacific Southwest Region, Attachment 1, designating USFS LE personnel (officers and special agents) as VFW-POs.

operation, the agency with DPA responsibility shall immediately inform the agency with original jurisdiction, and provide an estimated time of the soonest a peace officer will be available for response.

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 U.S.C. §§ 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.