FIRE PROTECTION ASSESSMENT FACT SHEET
FY '08

GENERAL INFORMATION

Current Rate:	Flat charge of $41.65 per owner per protection district. Additional assessment of $0.22 per acre for each acre owned over 20 acres.	
Distribution:	Small acreage landowners	60.0%
	Large acreage landowners	40.0%

Number of Records in Assessment Database:	99,950
Number of Owners Assessed:	58,695
Number of Protection Districts:	33
Number of Counties Updated Each Year:	39 of 56
Acres of School Trust Land Protected (Not Assessed):	955,440
Acres of Private and other Public Land Protected (Assessed):	4,189,979
Total Acres of Land Protected:	5,145,419

ASSESSMENT COLLECTIONS AND DISTRIBUTION

Fiscal Year	Amount Assessed	Amount Collected (FROM "CURRENT+PRIOR YEAR" ON THE ORG: 15-FORESTRY REVENUE REPORT)	% Collected
FY '00	$2,091,274.58	$1,894,496.52	90.59%
FY '01	$2,102,613.62	$1,979,454.44	94.14%
FY '02	$2,229,603.01	$2,158,987.22	96.83%
FY '03	$2,326,524.12	$2,404,298.63	103.34%
FY '04	$2,342,609.33	$2,402,817.67	102.57%
FY '05	$2,384,798.21	$2,512,572.09	105.36%
FY '06	$2,447,900.71	$2,443,561.07	99.82%
FY '07	$2,488,878.09	$2,585,519.28	103.88%
FY '08	$3,283,853.45		

The six largest counties in terms of revenue are:

County	Assessed Acres	Assessment
Flathead	592,189	$866,164
Missoula	667,482	$470,318
Lincoln	502,089	$379,253
Lake	172,145	$256,586
Lewis & Clark	332,990	$238,090
Sanders	349,583	$235,800

SOURCE: DNRC, FORESTRY DIVISION

2008

FIRE PROTECTION FEE

Purpose

The purpose of this report is to provide background information regarding the implementation and use of the fire protection fee. The fire protection fee is authorized under 76-13-201, MCA. This section defines who will pay the fee and the maximum amount of the fee. In addition, 76-13-207, MCA directs the fee to no greater than one-third of the appropriation for fire protection and 76-13-213 describes the assessment ratio. (Statutes are attached for reference.)

Historically the fee authorized under this statute has been set as follows:

- Pre 1985 - $0.16 per acre, with a minimum collection of $6.00
- 1985 Amendment - $0.17 per acre, with a minimum collection of $14.00
- 1991 Amendment - $30 per parcel plus $0.20 per acre for each acre in excess of 20

2007 Legislative Changes

The passage and approval of SB 145 affected the fire protection fee in three ways. First, the definition of wildland fire protection was codified and includes fire suppression.

Second, the fire protection fee was increased. The new maximums are set at $45.00 for each landowner in a protection district and an additional $0.25 per acre for every acre in excess of 20. Current rates are set at $41.65 per landowner and $0.22 per acre for every acre in excess of 20.

The third item was the establishment of a new policy to collect 60 percent of the fee from small forested land owners (less than 20 acres) and 40 percent of the fee from large forested land owners (greater than 20 acres).

Who Pays?

The fee is assessed to owners, including most government entities, of classified forest land that is within a wildfire protection district or under contract for fire protection by a recognized agency. This land is predominantly in Western Montana.

"Fire Protection Assessment Fact Sheet" developed by DNRC is attached for reference. This document summarizes the number of owners, acres, amount assessed vs. amount collected, and the six largest revenue producing counties.

What does the fee fund?

Currently the fee funds one-third of activities such as the fire-equipment development program, training programs, fire prevention, and pre-suppression coordination. The remaining two-thirds is general fund.

Historically the fund has not been used for fire suppression costs. The passage and approval of SB 145 of the 2007 legislature adds this potential use of the fund.

Revenues and Expenditures:

The following table illustrates the revenue collected and amount expended since FY 2000:

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenue	$2,151,574	$1,979,454	$2,158,987	$2,404,298	$2,403,350	$2,513,508	$2,445,014	$2,587,813
Expenditures	$2,063,065	$2,082,283	$3,398,265	$983,625	$2,463,994	$2,584,274	$2,565,398	$2,559,030
Difference	$88,509	($102,829)	($1,239,278)	$1,420,673	($60,644)	($70,766)	($120,384)	$28,783

During FY 2002, the fund took out a general fund loan to assist with cash flowing fire suppression expenses. This loan was paid off by the supplemental appropriation granted by the 2003 legislature. Between FY 2004 and FY 2006, the over expenditure was covered by the fund balance. The fund at the end of FY 2007 had a balance of approximately $52,400.

Issues:

Geographical disparity of fee – The forested land owners in mostly western Montana pay the bulk of this fee. The fee, however, supports statewide activities such as the county co-op program, including engines. Should a fee be enacted to expand participation to the east? How would such a fee be set to represent the value of services?

Value of structure protection – If DNRC does implement a policy to reduce structure protection services for homes in the wildland urban interface, will the perception of the fee change? Will individuals be willing to pay the current rate? Should the fee be different?

Direct protection – DNRC incurs costs to pre-position equipment prior to the fire season based on the conditions. This is commonly referred to as severity resources. These resources are paid for as suppression activities as part of the final fire suppression bill. Should pre-suppression funding appropriated by the legislature utilizing the 1/3 fee and 2/3 general fund formula? Or should it remain in the final fire suppression bill and funded with general fund?

State Land – Classified forest land within a wildland fire protection district owned by the state is assessed the fire protection fee. For example, the Department of Fish, Wildlife and Parks has been assessed $40,932 in protection fees for FY 2008. However, state trust lands have not been assessed. The value of such assessment is approximately $225,000, or $675,000 with the general fund match. The trust land fee would be paid from trust revenues. Given the way that common schools, the beneficiary of the largest trust, is funded, the loss revenues to the trust would be replaced by general fund in the budgeting process, therefore the assessment on trust lands would have a net impact of zero. The issue, is should state land be treated equally?

Options to adjust fee:

There are limited options to increase this revenue stream. They are either to expand the base of those who are assessed the fee or increase the fee. The fee is set as an upper limit. If the legislature wishes to see the program expand, the fee may need to be increased. The department can increase the per parcel fee by $3.35 and the per acre fee by $0.03 without seeking a change to the statute. Any fee increase results in an increase in general fund due to the relationship between the two funds. For example, for every $250,000 raised from the fee, another $500,000 of general fund would potentially be committed.

The option to adjust the "one-third fee - two-thirds general fund" policy also exists. If the legislature wishes to increase the percentage that landowners pay, the percentage of general fund would be lowered. For example if the legislature went to a 2/3rds fee and 1/3 general fund formula, for every $250,000 in fees raised, $125,000 in general fund would potentially be committed.

The fee could also be increased for a specific purpose. For example, to fund local fuel reduction or other local fire prevention activities an increase can be made to the fee and all or a portion of that fee can be retained by the

county. The county would be responsible for utilizing the fees in the appropriate manner. This type of revenue stream would not be available to the state.

Related Statues:

76-13-201. Costs for protection from fire. (1) An owner of land classified as forest land that is within a wildland fire protection district or that is otherwise under contract for fire protection by a recognized agency is subject to the fees for fire protection provided in this section.

(2) The department shall provide fire protection to the land described in subsection (1) at a cost to the landowner of not more than $45 for each landowner in the protection district and of not more than an additional 25 cents per acre per year for each acre in excess of 20 acres owned by each landowner in each protection district, as necessary to yield the amount of money provided for in 76-13-207. Assessment, payment, and collection of the fire protection costs must be in accordance with 76-13-207.

(3) Other charges may not be assessed to a participating landowner except in cases of proved negligence on the part of the landowner or the landowner's agent or in the event of a violation of 50-63-103.

History: En. Sec. 9, Ch. 128, L. 1939; amd. Sec. 2, Ch. 141, L. 1941; amd. Sec. 1, Ch. 188, L. 1955; amd. Sec. 1, Ch. 91, L. 1959; amd. Sec. 1, Ch. 148, L. 1967; amd. Sec. 1, Ch. 252, L. 1974; amd. Sec. 6, Ch. 253, L. 1974; amd. Sec. 4, Ch. 397, L. 1977; R.C.M. 1947, 28-109; amd. Sec. 1, Ch. 643, L. 1985; amd. Sec. 1, Ch. 360, L. 1991; amd. Sec. 6, Ch. 27, L. 1997; amd. Sec. 195, Ch. 574, L. 2001; amd. Sec. 17, Ch. 336, L. 2007.

Compiler's Comments:

2007 Amendment: Chapter 336 deleted former (1) that read: "(1) An owner of land classified as forest land by the department shall protect against the starting or existence and suppress the spread of fire on that land. This protection and suppression must be in conformity with reasonable rules and standards for adequate fire protection adopted by the department"; in (1) substituted language clarifying that the owner of forest land within a wildfire district is subject to fees for fire protection for "If the owner does not provide for the protection and suppression"; in (2) near beginning of first sentence substituted "shall" for "may" and raised the fee from $30 to $45 for each landowner and from 20 cents to 25 cents per acre per year for each acre in excess of 20 acres and substituted second sentence on assessment, payment, and collection of fire protection costs in accordance with 76-13-207 for former second and third sentences that read: "The owner of the land shall pay the charge approved by the department in accordance with part 1 and this part to the department of revenue. Payments to the department of revenue are due on or before November 30 of each year"; in (3) at end inserted "in the event of a violation of 50-63-103"; and made minor changes in style. Amendment effective June 1, 2007.

2001 Amendment: Chapter 574 in (2) in second sentence after "pay" deleted "to the county treasurer of the county in which the land is situated" and at end inserted "to the department of revenue" and inserted third sentence concerning timing of payments; and made minor changes in style. Amendment effective July 1, 2001.

1997 Amendment: Chapter 27 in (1), at end, substituted "department" for "board"; and made minor changes in style. Amendment effective February 21, 1997.

1991 Amendment: In (2), in first sentence, increased maximum allowable assessment from not more than 17 cents per acre per year with a minimum of up to $14 per owner per year to not more than $30 for each landowner in the district and up to 20 cents per acre per year for each acre in excess of 20 acres owned by each landowner. Amendment effective April 6, 1991.

Retroactive Applicability: Section 2, Ch. 360, L. 1991, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to calendar years beginning after December 31, 1989."

1985 Amendment: In (2), in first sentence, after "not more than" substituted "17 cents per acre per year except that the department shall make a minimum assessment of up to $14" for "16 cents per acre per year and not less than $6", and at end of sentence, after "district", inserted "as necessary to yield the amount of money provided for in 76-13-207".

Interim Study Committee Bill: Chapter 643, L. 1985, was introduced by request of Joint Interim Subcommittee No. 2. See committee report entitled "Timber Management and Forest Fire Protection Costs in Montana", Montana Legislative Council, December 1984.

Administrative Rules:

ARM 36.10.125 Railroads and powerlines.

ARM 36.10.161 Formula to set landowner assessments for fire protection.

Collateral References:

98 C.J.S. Woods and Forests § 5.

76-13-207. Determination and collection of costs of fire protection. (1) The department shall prepare an annual operation assessment plan in which fire protection costs are determined. The department shall request the legislature to appropriate the state's portion of the cost. After the appropriation is made by the legislature, the department shall cause an assessment to be made on the owners of land, as specified in 76-13-105 and 76-13-201, sufficient to bring the total amount received from the landowners to no greater than one-third of the amount specified in the appropriation.

(2) On or before the first Tuesday in September of each year, the department shall certify in writing to the department of revenue the names of these owners of lands in each county, together with a description of their lands and a statement of the amount found to be due and owing by each of the owners to the department for wildland fire protection.

(3) Upon receiving the certificate from the department showing the amount due, the department of revenue shall extend the amounts upon the county tax rolls covering the lands, and the sums become obligations of the owner, to be paid and collected in the same manner and at the same time and subject to the same penalties as general state and county taxes upon the same property are collected.

History: En. Sec. 11, Ch. 128, L. 1939; amd. Sec. 1, Ch. 95, L. 1959; amd. Sec. 215, Ch. 147, L. 1963; amd. Sec. 8, Ch. 253, L. 1974; amd. Sec. 1, Ch. 110, L. 1977; amd. Sec. 6, Ch. 397, L. 1977; R.C.M. 1947, 28-111(part); amd. Sec. 2, Ch. 643, L. 1985; amd. Sec. 138, Ch. 27, Sp. L. November 1993; amd. Sec. 23, Ch. 336, L. 2007.

Compiler's Comments:

2007 Amendment: Chapter 336 in (1) in third sentence before "land" deleted "classified forest" and inserted reference to 76-13-105; in (2) substituted "first Tuesday in September" for "second Tuesday in August", near middle before "lands" deleted "forest", and near end substituted "wildland" for "forest"; and made minor changes in style. Amendment effective June 1, 2007.

1993 Special Session Amendment: Chapter 27 in (2) and (3) substituted "department of revenue" for "county assessor"; and made minor changes in style. Amendment effective January 1, 1994.

Applicability: Section 171(2), Ch. 27, Sp. L. November 1993, provided that the amendments to this section apply to tax years after December 31, 1993.

1985 Amendment: In (1) near end, after "total amount received" substituted "from such landowners to no greater than one-third of the amount specified in the appropriation" for "to the amount specified in the approved plan".

Interim Study Committee Bill: Chapter 643, L. 1985, was introduced by request of Joint Interim Subcommittee No. 2. See committee report entitled "Timber Management and Forest Fire Protection Costs in Montana", Montana Legislative Council, December 1984.

Administrative Rules:

ARM 36.10.161 Formula to set landowner assessments for fire protection.

76-13-213. Formula to set landowner assessments for fire protection. (1) The department shall, pursuant to 76-13-207, set the annual fire assessment fee due from landowners pursuant to Title 76, chapter 13, parts 1 and 2. The total of all statewide landowner assessments may be no greater than one-third of the amount appropriated by the legislature to fund the protection costs.

(2) The individual assessments must be established using the following criteria:

(a) Each person or corporation who is responsible for fire protection pursuant to 76-13-108 and 76-13-201 and for whom the department provides fire protection must be assessed a per capita landowner fee. The total per capita landowner assessments statewide from persons or corporations who own 20 acres or less of land for which the department provides protection must be as close as administratively possible to 60% of the total private landowner assessments.

(b) A person or corporation who owns more than 20 acres of land for which the department provides protection shall, in addition to the fee assessed pursuant to subsection (2)(a), pay a per-acre fee for each whole acre that the person owns in excess of 20 acres. The total of all assessments statewide from persons or corporations that own more than 20 acres must be as close as administratively possible to 40% of the total private landowner assessments.

(3) (a) Except as provided in subsection (3)(b), the per capita and per-acre fees must remain in effect for subsequent years.

(b) The department shall reset the per capita and per-acre fees whenever it is necessary to obtain up to one-third of the amount appropriated by the legislature.

(c) Whenever the department resets the fees pursuant to subsection (3)(b), it shall do so in accordance with 76-13-201(2).

History: En. Sec. 29, Ch. 336, L. 2007.

Compiler's Comments:

Effective Date: Section 35, Ch. 336, L. 2007, provided that this section is effective June 1, 2007.