

Legislator's Frequently Asked Questions about the Fire Protection Assessment

What is the Fire Protection Assessment? – Montana law requires landowners to provide adequate fire protection for their land 76-13-212, MCA and 76-13-115 (6). Most landowners simply do not have the capability or financial resources necessary to accomplish this. The Department of Natural Resources & Conservation (DNRC) has been authorized to provide this service to private and public landowners at a minimum charge 76-13-105, MCA. This is **not a tax but a fee** for wildland fire protection benefits actually received 76-13-208, MCA. A landowner paying wildland fire protection fees can receive no other charges as a result of a fire originating on his or her land with the exception of those resulting from **negligence** on the part of the landowner or his agent or in the event of a violation of 50-63-103, MCA, 76-13-201(3), MCA.

Why do I have to pay it? – Some areas have been formed into Wildland Fire Protection Districts and all owners of forest land within these districts are automatically assessed the fire protection fee 76-13-105 (2), MCA & 76-13-201, MCA. Forest owners within an organized District cannot cancel fire protection unless the whole district is dissolved (it takes a petition by 51% of the owners who own at least 51% of the land area) 76-13-204, MCA.

What is the Current Assessment Charge? – For 2018, the Wildland Fire Protection fee is \$43.54 per landowner per district plus an additional 27 cents for each acre owned in excess of 20 acres. The Legislature set the rate for condos to be half the per landowner fee per condo \$20.52 per condo 76-13-213(C), MCA. Current fire protection caps are set at \$50 per landowner per district plus an additional 30 cents for each acre owned in excess of 20 acres 76-13-201, MCA.

What is the Wildland Fire Assessment Process? –

- The DNRC Fire Assessment Office has an MOU with the Department of Revenue (DOR) and receives multiple updated database downloads from DOR yearly.
- The DOR data is downloaded into a Fire Protection Assessment database program and each parcel discrepancy is reviewed and updated by the Fire Assessment Program Manager.
- In late summer, the Fire Assessment Program Manager works with DNRC fiscal staff to create the annual operation assessment plan. A total amount for assessments is determined to bring the total amount received from the landowners to no greater than one-third of the amount appropriated by the legislature to fund the protection costs 76-13-207, MCA.
- Total Assessment costs levied on landowners is further broken down along Per Capita and Per Acre fees to accommodate the following
 - 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 76-13-213, MCA.

- 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 76-13-213, MCA.
 - A person who owns a share of property and has full ownership of a unit on the property must be assessed an amount not less than one-half of the amount established to be assessed for the property under subsection (2)(a) 76-13-213, MCA.
 - Assessment Costs to the landowner will be no more than \$50 for each landowner in the protection district and no more than an additional 30 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, 76-13-201, MCA.
- Once Assessment costs are determined, the Fire Assessment Database Program assesses each landowner appropriately by acreage and within each Wildland Fire District.
 - 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 assessed 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 76-13-207, MCA.
 - At the same time assessment rolls are created and submitted to counties, assessment reports and maps are created and submitted to each recognized protection agency listing their obligated areas of protection for the next year.
 - Upon receiving the certificate from DNRC 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 76-13-207, MCA.
 - The County Treasurer collects and transfers the assessed funds to the State Treasurer. The collected funds are deposited in the State Special Revenue Fund.

What if property ownership or acreage size changes after assessments are levied?-

Since DNRC charges for services rendered, Wildland Fire Assessments are charges to landowners for the previous year's protection. Therefore, ownership or parcel change updates will be completed yearly by the department in the fall and will provide for the previous year's protection based on the updated informational download from the DOR.

Can I get Wildland Fire Protection Outside of District? -

The state has recognized the interests of private landowners who wish to secure adequate fire protection without formation of a wildland fire protection district. There are areas of the state, called Affidavit Units, within which various recognized fire protection agencies will accept fire

protection of forest or non-forest lands on an individual basis 76-13-105, MCA. No private lands outside of a Wildland Fire District are protected without a Fire Protection Agreement (either an Affidavit or Non-forest agreement). Landowners in these areas may cancel the fire protection, and therefore the fee, by notifying the Assessment Program Manager, Fire & Aviation Management Bureau in writing that they no longer wish to be protected by a wildland fire agency.

Who provides Fire Protection outside of Wildland Fire Districts or Fire Protection Agreements?- Private and public land, whether classified as forest land or otherwise, that is not within a wildland fire protection district or under contract for fire protection by a recognized agency must be protected by a county as provided in 7-33-2202, MCA. The county governing body shall either provide direct protection, as provided in 7-33-2202(4), MCA or it shall enter into an agreement for protection with a recognized agency.

How can my property be classified as forest when it doesn't have a tree on it? – The legal definition of classified forest land, for the purpose of wildland fire protection, is found in MCA 76-13-102 (3) and is further defined in Administrative Rule 36.10.101. The definition recognizes that wildfires do not just stop where the tree cover stops so it allows for a “buffer” along the actual edge of the tree cover. Specifically, the statute directs DNRC to classify forest land as **“land which has enough timber, standing or down, slash, or brush, to constitute in the judgment of the department a fire menace to life or property. Grassland and agricultural areas are included when those areas are intermingled with or contiguous to and no further than one-half mile from areas of forest land.”** This forest zone classification is different and separate from the Department of Revenue land classifications used for property tax calculations.

This area used to be open space but is now a subdivision. Should it still be classified as forest land? – If the land has changed significantly from when it was originally classified, the landowner can request that their land be inspected to see if it still belongs in the forested zone. The key to remember is that land use must change enough so that the land is no longer at risk from a forest fire for it to be reclassified as non-forest. Just because an area now has houses, where previously there were none, does not mean that the forest classification should change. The structures must be of sufficient density that the whole area now has more of an urban nature than what we think of as the wildland/urban interface. Similarly, agricultural clearing of land must be an area large enough to no longer be “intermingled with or contiguous to and no further than one-half mile from areas of forest land.” If there is still enough fuel to constitute a threat of wildfire, the area should remain classified as forest zone.

Is tax exempt property subject to the Forest Fire Assessment? – Yes, the Forest Fire Assessment is a special assessment for benefits actually received and not a property tax. All entities receiving these state services (churches, non-profit organizations, city & county governments, state agencies etc.) are required to pay the fee.

Does paying the fee provide me with “insurance” that I will not be billed for forest fire suppression costs? – No, the fee is not an insurance policy. Landowners can still be billed for the costs of fires they intentionally start (even if they did not intend to start a wildfire) and for wildfires that start and/or spread because of negligence by the landowner or their agent. However, paying the fee does mean that the owner has fully complied with the duties imposed by 76-13-201, MCA to provide fire protection and therefore, should not be billed for accidental fires, fires started by passersby or naturally caused fires.

I have never seen a DNRC fire crew respond to a fire on my property; it is always a USFS or BLM fire crew. Why do I pay this fee to the State of Montana? – DNRC has entered into contracts and agreements with other wildland fire fighting agencies to provide protection services on some of the land for which it is responsible. For the most part, we exchange areas of equal costs with federal agencies that are already set up to protect federal lands. This method of exchanging areas of protection responsibility and/or paying another agency to protect certain lands on a contract is more efficient and economical than if DNRC were to provide the services themselves.