



SB-504 Wildfires: defensible space: grant programs: local governments. (2023-2024)

As Amends the Law Today

SECTION 1. Section 51182 of the Government Code is amended to read:

51182. (a) A person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure ~~in, upon, or adjoining a mountainous area, forest-covered land, shrub-covered land, grass-covered land, or land that is covered with flammable material, which area or land is~~ within a very high fire hazard severity zone designated by the local agency pursuant to Section 51179, shall at all times do all of the following:

(1) (A) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in subparagraph (B). The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained and spaced in a condition so that a wildfire ~~burning under average weather conditions~~ would be unlikely to ignite the structure. This subparagraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation or to interrupt the advance of embers toward a structure. The intensity of fuels management may vary within the 100-foot perimeter of the structure, with more intense fuel reductions being used between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure, based on regulations promulgated by the State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. *The regulations may also alter the fuel reduction required between 5 and 30 feet to integrate the ember-resistant zone into the requirements of this section.* Consistent with fuels management objectives, steps should be taken to minimize erosion, soil disturbance, and the spread of flammable nonnative grasses and weeds.

(B) A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation. Fuel modification beyond the property line may only be required by state law, local ordinance, rule, or regulation in order to maintain 100 feet of defensible space from a structure. Fuel modification on adjacent property shall only be conducted following written consent by the adjacent landowner. Any local ordinance related to fuel modification shall be in compliance with all applicable state laws, regulations, and policies. Any local ordinance may include provisions to allocate costs for any fuel modification beyond the property line.

(C) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under subparagraph (A) if a fire expert, designated by the fire chief or fire official from the authority having jurisdiction, provides findings that the fuel modification is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.

(2) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(3) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.

(4) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

(5) Before constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in that zone, the construction or rebuilding of which requires a building

permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

(c) (1) The State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, shall develop, periodically update, and post on its internet website a guidance document on fuels management pursuant to this chapter. The guidance document shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species that are fire resistant or drought tolerant, or both, minimize erosion, minimize the spread of flammable nonnative grasses and weeds, minimize water consumption, and permit trees and shrubs near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion such as woodpiles, propane tanks, decks, and outdoor lawn furniture.

(2) On or before January 1, 2023, the State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, shall update the guidance document to include suggestions for creating an ember-resistant zone within five feet of a structure based on regulations promulgated by the State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. *Existing and new structures shall meet the same standard for the ember-resistant zone, but regulations shall allow the staging of work for existing structures to support implementation of the ember-resistant zone and address the costs of compliance.*

(d) For purposes of this section, a structure for the purpose of an ember-resistant zone shall include any attached deck. This section does not limit the authority of the State Board of Forestry and Fire Protection or the Office of the State Fire Marshal to require the removal of fuel or vegetation on top of or underneath a deck pursuant to this section.

SEC. 2. Section 51186 of the Government Code is amended to read:

51186. (a) The local agency having jurisdiction of property upon which conditions regulated by Section 51182 are being violated shall notify the owner of the property to correct the conditions. If the owner fails to correct the conditions, the local agency may cause the corrections to be made, and the expenses incurred shall become a lien on the property that is the subject of the corrections when recorded in the county recorder's office in the county in which the real property is located. The priority of the lien shall be as of the date of recording. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record as shown on the latest equalized assessment roll.

(b) (1) Each local agency having jurisdiction of property upon which conditions that are regulated by Section 51182 apply shall make reasonable efforts to provide notice to affected residents within the jurisdiction of the local agency describing the requirements added by the amendments to paragraph (1) of subdivision (a) of Section 51182 made in Assembly Bill 3074 of the 2019–20 Regular Session before the imposition of penalties for violating those requirements.

(2) (A) The requirement for an ember-resistant zone pursuant to Section 51182 shall not take effect for new structures until the State Board of Forestry and Fire Protection updates the regulations, pursuant to paragraph (1) of subdivision (a) of Section 51182, and the guidance document, pursuant to paragraph (2) of subdivision (c) of Section 51182.

(B) The requirements for an ember-resistant zone pursuant to Section 51182 shall take effect for existing structures ~~one year~~ *three years* after the effective date for the new structures.

SEC. 3. Section 4124.5 of the Public Resources Code is amended to read:

4124.5. (a) The department shall establish a local assistance grant program for fire prevention and home hardening education activities in California. Groups eligible for grants shall include, but are not limited to, local

agencies, resource conservation districts, fire safe councils, the California Conservation Corps, certified community conservation corps as defined in Section 14507.5, University of California Cooperative Extension, the Board of Commissioners under California Volunteers described in Section 8411 of the Government Code, Native American tribes, and qualified nonprofit organizations. The department may establish a cost-share requirement for one or more categories of projects.

(b) (1) The local assistance grant program shall establish a robust year-round fire prevention effort in and near fire-threatened communities that focuses on increasing the protection of people, structures, and communities. To the maximum extent practicable, the grants shall be designed to be durable and adaptively managed so that while improving resiliency to wildfire, the projects, when on forest land, retain a mixture of species and sizes of trees to protect habitat values. The department shall prioritize, to the extent feasible, projects that are multiyear efforts.

(2) For purposes of this subdivision, "fire-threatened communities" means those communities in high and very high fire hazard severity zones, identified by the State Fire Marshal pursuant to Section 51178 of the Government Code, or Article 9 (commencing with Section 4201) of this code, or on the "Fire Risk Reduction Community" list maintained by the board pursuant to Section 4290.1.

(c) Eligible activities shall include, but not be limited to, all of the following:

(1) Development and implementation of public education and outreach programs. Programs may include technical assistance, *new technologies, game elements to enhance and accelerate the education of property owners*, workforce recruitment and training, and equipment purchases.

(2) Fire prevention activities as defined in Section 4124.

(3) Projects to improve compliance with defensible space requirements as required by Section 4291 through increased inspections, assessments, and assistance for low-income residents.

(4) Technical assistance to local agencies to improve fire prevention and reduce fire hazards.

(5) Creation of additional "Firewise USA" communities in the state or other community planning or certification programs deemed as appropriate by the department.

(6) Projects to improve public safety, including, but not limited to, access to emergency equipment and improvements to public evacuation routes.

(7) Vegetation management along roadways and driveways to reduce fire risk. Where appropriate, the Department of Transportation shall be consulted if state infrastructure will be affected. Those projects shall remain consistent with paragraph (1) of subdivision (b).

(8) Public education outreach regarding making homes and communities more wildfire resilient, including training on defensible space and prescribed grazing.

(9) Projects to reduce the flammability of structures and communities to prevent their ignition from wind-driven embers.

(10) Development of a risk reduction checklist for communities that includes defensible space criteria, structural vulnerability potential, and personal evacuation plans.

(d) The department may consider the fire risk of an area, the geographic balance of projects, and whether the project is complementary to other fire prevention or forest health activities when awarding local assistance grants.

(e) When reviewing applications for the grant program created pursuant to this section, the department shall give priority to any local governmental entity qualified to perform defensible space assessments pursuant to Section 4291.5 in very high and high fire hazard severity zones, as identified by the State Fire Marshal pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201) of this chapter or by a local agency pursuant to Section 51179 of the Government Code, for using the common reporting platform created pursuant to subdivision (c) of Section 4291.5 to report that information.

~~(e)~~ (f) (1) The director may authorize advance payments from a grant awarded pursuant to this section. The advance payment shall not exceed 25 percent of the total grant award. The director may authorize a greater amount, not to exceed 50 percent of either the total grant award or the cost of equipment or supplies, whichever amount is less, for the purpose of purchasing necessary equipment or supplies.

(2) The grantee shall expend the funds from the advance payment within six months of receipt, unless the department waives this requirement.

(3) The grantee shall file an accountability report with the department four months from the date of receiving the funds and every four months thereafter.

~~(f)~~ (g) Until July 1, 2025, the department may authorize advance payments on a grant awarded under this section in accordance with subdivision (d) of Section 11019.1 of the Government Code.

~~(g)~~ (h) The department may expand or amend an existing grant program to meet the requirements of this section.

~~(h)~~ (i) Funding for the local assistance grant program created pursuant to this section shall be made upon appropriation by the Legislature.

SEC. 3.5. Section 4124.5 of the Public Resources Code is amended to read:

4124.5. (a) The department shall establish a local assistance grant program for fire prevention and home hardening education activities in California. Groups eligible for grants shall include, but are not limited to, local agencies, resource conservation districts, fire safe councils, the California Conservation Corps, certified community conservation corps as defined in Section 14507.5, University of California Cooperative Extension, the Board of Commissioners under CaliforniaVolunteers described in Section 8411 of the Government Code, Native American tribes, and qualified nonprofit organizations. The department may establish a cost-share requirement for one or more categories of projects.

(b) (1) The local assistance grant program shall establish a robust year-round fire prevention effort in and near fire-threatened communities that focuses on increasing the protection of people, structures, and communities. To the maximum extent practicable, the grants shall be designed to be durable and adaptively managed so that while improving resiliency to wildfire, the projects, when on forest land, retain a mixture of species and sizes of trees to protect habitat values. The department shall prioritize, to the extent feasible, projects that are multiyear efforts.

(2) For purposes of this subdivision, "fire-threatened communities" means those communities in high and very high fire hazard severity zones, identified by the State Fire Marshal pursuant to Section 51178 of the Government Code, or Article 9 (commencing with Section 4201) of this code, or on the "Fire Risk Reduction Community" list maintained by the board pursuant to Section 4290.1.

(c) Eligible activities shall include, but not be limited to, all of the following:

(1) Development and implementation of public education and outreach programs. Programs may include technical assistance, *new technologies, game elements to enhance and accelerate the education of property owners,* workforce recruitment and training, and equipment purchases.

(2) Fire prevention activities as defined in Section 4124.

(3) Projects to improve compliance with defensible space requirements as required by Section 4291 through increased inspections, assessments, and assistance for ~~low-income—residents.~~ *residents with relevant socioeconomic characteristics, as defined in Section 8654.7 of the Government Code.*

(4) Technical assistance to local agencies to improve fire prevention and reduce fire hazards.

(5) Creation of additional "Firewise USA" communities in the state or other community planning or certification programs deemed as appropriate by the department.

(6) Projects to improve public safety, including, but not limited to, access to emergency equipment and improvements to public evacuation routes.

(7) Vegetation management along roadways and driveways to reduce fire risk. Where appropriate, the Department of Transportation shall be consulted if state infrastructure will be affected. Those projects shall remain consistent with paragraph (1) of subdivision (b).

(8) Public education outreach regarding making homes and communities more wildfire resilient, including training on defensible space and prescribed grazing.

(9) Projects to reduce the flammability of structures and communities to prevent their ignition from wind-driven embers.

(10) Development of a risk reduction checklist for communities that includes defensible space criteria, structural vulnerability potential, and personal evacuation plans.

(11) (A) Projects involving the application of prescribed grazing, which may include the installation of fencing or watering improvements.

(B) Watering improvements described in subparagraph (A) shall not include the creation of a well or replacement of well infrastructure.

(d) The department may consider the fire risk of an area, the geographic balance of projects, and whether the project is complementary to other fire prevention or forest health activities when awarding local assistance grants.

(e) When reviewing applications for the grant program created pursuant to this section, the department shall give priority to any local governmental entity qualified to perform defensible space assessments pursuant to Section 4291.5 in very high and high fire hazard severity zones, as identified by the State Fire Marshal pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201) of this chapter or by a local agency pursuant to Section 51179 of the Government Code, for using the common reporting platform created pursuant to subdivision (c) of Section 4291.5 to report that information.

~~(e)~~ (f) (1) The director may authorize advance payments from a grant awarded pursuant to this section. The advance payment shall not exceed 25 percent of the total grant award. The director may authorize a greater amount, not to exceed 50 percent of either the total grant award or the cost of equipment or supplies, whichever amount is less, for the purpose of purchasing necessary equipment or supplies.

(2) The grantee shall expend the funds from the advance payment within six months of receipt, unless the department waives this requirement.

(3) The grantee shall file an accountability report with the department ~~four~~ *no later than six* months from the date of receiving the funds and ~~every four~~ *no later than every six* months thereafter.

~~(f)~~ (g) Until July 1, 2025, the department may authorize advance payments on a grant awarded under this section in accordance with subdivision (d) of Section 11019.1 of the Government Code.

~~(g)~~ (h) The department may expand or amend an existing grant program to meet the requirements of this section.

~~(h)~~ (i) Funding for the local assistance grant program created pursuant to this section shall be made upon appropriation by the Legislature.

SEC. 4. Section 4291 of the Public Resources Code is amended to read:

4291. (a) A person who owns, leases, controls, operates, or maintains a building or structure ~~in, upon, or adjoining a mountainous area, forest-covered lands, shrub-covered lands, grass-covered lands, or land that is covered with flammable material,~~ *in the state responsibility area* shall at all times do all of the following:

(1) (A) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line, except as provided in subparagraph (B). The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained and spaced in a condition so that a wildfire ~~burning under average weather conditions~~ would be unlikely to ignite the structure. This subparagraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation or to interrupt the advance of embers toward a structure. The intensity of fuels management may vary within the 100-foot perimeter of the structure, with more intense fuel reductions being utilized between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. *The regulations may also alter the fuel reduction required between 5 and 30 feet to integrate the ember-resistant zone into the requirements of this section.* Consistent with fuels management objectives, steps should be taken to minimize erosion, soil disturbance, and the spread of flammable nonnative grasses and weeds. For purposes of this subparagraph, "fuel" means any combustible material, including petroleum-based products, cultivated landscape plants, grasses, and weeds, and wildland vegetation.

(B) A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation. Fuel modification beyond the property line may only be required by state law, local ordinance, rule, or regulation in order to maintain 100 feet of defensible space from a structure. Fuel modification on adjacent property shall only be conducted following written consent by the adjacent landowner. Any local ordinance related to fuel modification shall be in compliance with all applicable state laws, regulations, and policies. Any local ordinance may include provisions to allocate costs for any fuel modification beyond the property line.

(C) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under subparagraph (A) if a fire expert, designated by the director, provides findings that the fuel modification is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.

(2) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(3) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.

(4) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

(5) Before constructing a new building or structure or rebuilding a building or structure damaged by a fire in an area subject to this section, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

(c) (1) Except as provided in Section 18930 of the Health and Safety Code, the State Fire Marshal may adopt regulations exempting a structure with an exterior constructed entirely of nonflammable materials, or, conditioned upon the contents and composition of the structure, the director may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

(2) An exemption or variance under paragraph (1) shall not apply unless and until the occupant of the structure, or if there is not an occupant, the owner of the structure, files with the State Fire Marshal, in a form as the State Fire Marshal shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(d) The State Fire Marshal may authorize the removal of vegetation that is not consistent with the standards of this section. The State Fire Marshal may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.

(e) (1) The board, in consultation with the State Fire Marshal, shall develop, periodically update, and post on its internet website a guidance document on fuels management pursuant to this chapter. The guidance document shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species that are fire resistant or drought tolerant, or both, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion, such as woodpiles, propane tanks, decks, outdoor furniture, barbecue equipment, and outdoor fire pits.

(2) On or before January 1, 2023, the board, in consultation with the State Fire Marshal, shall update the guidance document to include suggestions for creating an ember-resistant zone within five feet of a structure, based on regulations promulgated by the board, in consultation with the department, to consider the elimination

of materials in the ember-resistant zone that would likely be ignited by embers. *Existing and new structures shall meet the same standard for the ember-resistant zone, but regulations shall allow the staging of work for existing structures to support implementation of the ember-resistant zone and address the costs of compliance.*

(f) The State Fire Marshal shall do both of the following:

(1) Recommend to the board the types of vegetation or fuel that are to be excluded from an ember-resistant zone based on the probability that vegetation and fuel will lead to ignition by ember of a structure as a part of the update to the guidance document pursuant to paragraph (2) of subdivision (e).

(2) Make reasonable efforts to provide notice to affected residents describing the requirements added by the amendments to paragraph (1) of subdivision (a) made in Assembly Bill 3074 of the 2019–20 Regular Session before the imposition of penalties for violating those requirements.

(g) (1) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall not take effect for new structures until the board updates the regulations, pursuant to paragraph (1) of subdivision (a), and the guidance document, pursuant to paragraph (2) of subdivision (e).

(2) The requirement for an ember-resistant zone pursuant to paragraph (1) of subdivision (a) shall take effect for existing structures ~~one-year~~ *three years* after the effective date for the new structures.

(h) The department shall not change defensible space inspection practices and forms or enforcement to implement the requirement for an ember-resistant zone until the State Fire Marshal makes a written finding, which the State Fire Marshal shall post on the department's internet website, that the Legislature has appropriated sufficient resources to do so.

(i) For purposes of this section, a structure for the purpose of an ember-resistant zone shall include any attached deck. This section does not limit the authority of the board or the department to require the removal of fuel or vegetation on top of or underneath a deck pursuant to this section.

(j) As used in this section, "person" means a private individual, organization, partnership, limited liability company, or corporation.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 4124.5 of the Public Resources Code proposed by both this bill and Senate Bill 675. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 4124.5 of the Public Resources Code, and (3) this bill is enacted after Senate Bill 675, in which case Section 3 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.