

**Effective 5/12/2015**

**11-51a-103 Declaration of catastrophic public nuisance -- Authority to declare and demand abatement.**

- (1) The chief executive officer of a political subdivision or a county sheriff may determine that a catastrophic public nuisance exists on land within the borders of the political subdivision.
- (2) In evaluating whether a catastrophic public nuisance exists, the chief executive officer of a political subdivision or a county sheriff may consider:
  - (a) tree density and overall health of a forested area, including the fire regime condition class;
  - (b) insect and disease infestation, including insect and disease hazard ratings;
  - (c) fuel loads;
  - (d) forest or range type;
  - (e) slope and other natural characteristics of an area;
  - (f) watershed protection criteria;
  - (g) weather and climate; and
  - (h) any other factor that the chief executive officer of a political subdivision or a county sheriff reasonably considers to be relevant, under the circumstances.
- (3) Except as provided in Section 11-51a-104, upon making the determination described in Subsection (1), the chief executive officer of a political subdivision or a county sheriff shall after consultation with the attorney general:
  - (a) serve notice of the determination described in Subsection (1), by hand or certified mail, on the federal or state agency that manages the land upon which the catastrophic nuisance exists; and
  - (b) provide a copy of the determination that is served under Subsection (3)(a) to the governor, the attorney general, and if the catastrophic public nuisance exists on federally managed land, the state's congressional delegation.
- (4) The notice described in Subsection (3)(a) shall include:
  - (a) a detailed explanation of the basis for determination that a catastrophic public nuisance exists on the land in question;
  - (b) a demand that the federal or state agency formulate a plan to abate the catastrophic nuisance; and
  - (c) a specific date, no less than 30 days after the day on which the notice is received, by which time the federal or state agency that manages the land shall:
    - (i) abate the catastrophic public nuisance; or
    - (ii) produce a plan for mitigating the catastrophic public nuisance that is reasonably acceptable to the county or subdivision.
- (5) The chief executive officer of a political subdivision or a county sheriff may enter into a plan with the relevant federal or state agency, or both, to abate the catastrophic public nuisance.
- (6) If, after receiving the notice described in Subsections (3)(a) and (4), the federal or state agency does not respond by the date requested in the notice or otherwise indicates that the federal or state agency is unwilling to take action to abate the catastrophic public nuisance, the chief executive officer of a political subdivision or a county sheriff shall consult with the county attorney and attorney general.

Enacted by Chapter 419, 2015 General Session