

Part 2 Fire Control

65A-8-201 Uncontrolled fire is a public nuisance.

Any fire on forest, range, watershed, or wildland urban interface land in the state burning uncontrolled and without proper and adequate action being taken to manage it is a public nuisance.

Amended by Chapter 174, 2016 General Session

65A-8-202 Fire control -- County responsibilities.

- (1) A county shall abate the public nuisance caused by wildfire on unincorporated, privately owned or county owned forest, range, watershed, and wildland urban interface lands within its boundaries.
- (2) A county may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.
- (3) A county shall:
 - (a) reduce the risk of wildfire to unincorporated, privately owned or county owned forest, range, watershed, and wildland urban interface land within the county's boundaries, with private landowner permission, through appropriate wildfire prevention, preparedness, and mitigation actions; and
 - (b) ensure effective wildfire initial attack on unincorporated privately owned or county owned forest, range, watershed, and wildland urban interface land within the county's boundaries.
- (4) A county may assign the responsibilities described in Subsections (1) and (3) to a fire service provider or an eligible entity, as defined in Section 65A-8-203, through contract, delegation, interlocal agreement, or another method.
- (5) The state forester shall make certain that appropriate action is taken to control wildland fires on unincorporated nonfederal forest, range, watershed, and wildland urban interface lands.
- (6) Nothing in this section excuses a private landowner from complying with an applicable county ordinance.

Amended by Chapter 174, 2016 General Session

65A-8-202.5 City and town responsibilities.

- (1) A municipality shall abate the public nuisance caused by wildfire on forest, range, watershed, and wildland urban interface land within the boundaries of the municipality if the land is:
 - (a) privately owned; or
 - (b) owned by the municipality.
- (2) A municipality may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.
- (3) A municipality shall:
 - (a) reduce the risk of wildfire to incorporated, privately owned and municipality owned forest, range, watershed, and wildland urban interface land, with private landowner permission, through appropriate wildfire prevention, preparedness, and mitigation actions; and
 - (b) ensure effective wildfire initial attack on forest, range, watershed, and wildland urban interface land within the municipality's fire protection boundary.

- (4) A municipality may assign the responsibilities described in Subsections (1) and (3) to a fire service provider or an eligible entity, as defined in Section 65A-8-203, through contract, delegation, interlocal agreement, or another method.
- (5) The state forester shall make certain that appropriate action is taken to control wildland fires on incorporated, nonfederal forest, range, watershed, and wildland urban interface lands.
- (6) Nothing in this section excuses a private landowner from complying with an applicable county ordinance.

Enacted by Chapter 174, 2016 General Session

65A-8-203 Cooperative fire protection agreements with counties, cities, towns, or special service districts.

- (1) As used in this section:
 - (a) "Eligible entity" means:
 - (i) a county, a municipality, or a special service district, local district, or service area with:
 - (A) wildland fire suppression responsibility as described in Section 11-7-1; and
 - (B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or
 - (ii) upon approval by the director, a political subdivision established by a county, municipality, special service district, local district, or service area that is responsible for:
 - (A) providing wildland fire suppression services; and
 - (B) paying for the cost of wildland fire suppression services.
 - (b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).
- (2)
 - (a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this Title 65A, Chapter 8, Part 2, Fire Control.
 - (b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.
- (3)
 - (a) An eligible entity may not receive financial cooperation or financial assistance under Subsection (2)(a) until a cooperative agreement is executed by the eligible entity and the division.
 - (b) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.
 - (c) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.
- (4) In order to enter into a cooperative agreement with the division, the eligible entity shall:
 - (a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;
 - (b) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;

- (c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;
 - (d) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;
 - (e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and
 - (f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.
- (5)
- (a) The state forester may execute a cooperative agreement with the eligible entity.
 - (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:
 - (i) cooperative agreements described in this section;
 - (ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);
 - (iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;
 - (iv) accounting system for determining suppression costs;
 - (v) manner in which the division shall determine the eligible entity's participation commitment; and
 - (vi) manner in which an eligible entity may appeal a division determination.
- (6)
- (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).
 - (b) Each eligible entity participating in a cooperative agreement shall:
 - (i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and
 - (ii) return the financial statement to the division, on or before a date set by the division.
 - (c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).
- (7)
- (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:
 - (i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or
 - (ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.
 - (b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).

Amended by Chapter 174, 2016 General Session

65A-8-203.1 Delegation of fire management authority.

- (1) As used in this section, "delegation of fire management authority" means the acceptance by the division of responsibility for:
 - (a) managing a wildfire; and

- (b) the cost of fire suppression, as described in Section 65A-8-203.
- (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the process for delegation of fire management authority.
- (3) Upon delegation of fire management authority, the division and its named designee becomes the primary incident commander.

Enacted by Chapter 174, 2016 General Session

65A-8-203.2 Billing a county or municipality not covered by a cooperative agreement -- Calculating cost of wildfire suppression.

- (1) The division shall bill a county that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that county accrued by the state.
- (2) The division shall bill a municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that municipality accrued by the state.
- (3) The cost of wildfire suppression to a county or municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, shall be calculated by determining the number of acres burned within the borders of a county or municipality, dividing that number by the total number of acres burned by a wildfire, and multiplying the resulting percentage by the state's total cost of wildfire suppression for that wildfire.
- (4) A county or municipality that receives a bill from the division, pursuant to this section, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the bill, subject to the county or municipality's right to appeal, as described in Subsection 65A-8-203(5)(b)(vi).

Enacted by Chapter 174, 2016 General Session

65A-8-204 Wildland Fire Suppression Fund created.

- (1) There is created an expendable special revenue fund known as the "Wildland Fire Suppression Fund."
- (2) The fund shall be administered by the division to pay wildfire suppression costs on eligible lands, including for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.
- (3) The contents of the fund shall include:
 - (a) interest and earnings from the investment of fund money;
 - (b) money appropriated by the Legislature;
 - (c) costs recovered from successful investigations;
 - (d) federal funds received by the division for wildfire management costs;
 - (e) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;
 - (f) suppression costs paid to the division by another state agency;
 - (g) costs recovered from settlements and civil actions related to wildfire suppression;
 - (h) restitution payments ordered by a court following a criminal adjudication;
 - (i) the balance of the fund as of July 1, 2016;
 - (j) money deposited by the Division of Finance, pursuant to Section 59-21-2; and
 - (k) money transferred by the Division of Finance, pursuant to Section 63J-1-312.
- (4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) A maximum level of \$12,000,000 is established for the fund.

Amended by Chapter 174, 2016 General Session

Amended by Chapter 183, 2016 General Session

65A-8-206 Disbursements from the Wildland Fire Suppression Fund.

- (1) Disbursements from the fund created in Section 65A-8-204 shall be made only upon written order of the state forester or the state forester's authorized representative.
- (2) If the state forester determines money in the fund may be insufficient to cover eligible costs in a program year, the state forester may:
 - (a) delay making disbursements from the fund until the close of the program year; and
 - (b) request supplemental appropriations from the Legislature.

Amended by Chapter 174, 2016 General Session

65A-8-207 Division to administer Wildland Fire Suppression Fund -- Rulemaking -- Procedures.

By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer the Wildland Fire Suppression Fund.

Amended by Chapter 174, 2016 General Session

65A-8-209 Responsibilities of county sheriffs and fire wardens in controlling fires.

- (1) In a county that has not entered into a cooperative agreement as described in Section 65A-8-203, the county sheriff shall take appropriate action to suppress wildfires on state or private lands.
- (2) In all cases the county sheriff shall:
 - (a) report, as prescribed by the state forester, on wildland fire control action;
 - (b) investigate and report wildfire causes; and
 - (c) enforce the provisions of this chapter either independently or in cooperation with the state forester.
- (3) In an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203, the primary responsibility for wildfire management is the division, upon the delegation of fire management authority, as described in Section 65A-8-203.1.
- (4) The county sheriff and the county sheriff's organization shall maintain cooperative support of the fire management organization.

Amended by Chapter 174, 2016 General Session

65A-8-209.1 County fire warden.

- (1)
 - (a) Each county that participates in a cooperative agreement with the division, as described in Section 65A-8-203, shall be represented by a county fire warden at a minimum during the closed fire season, as described in Section 65A-8-211, except as provided in Subsections (1)(b) and (c).
 - (b) A county of the fifth class that, as of January 1, 2016, is cost-sharing a fire warden with an adjacent county may continue to do so with the approval of the state forester.

- (c) A county of the sixth class may cost-share a county fire warden with an adjacent county, with the approval of the state forester.
- (2) The salary and benefits paid to a county fire warden shall be:
 - (a) divided by the division and the county; or
 - (b) paid partly by the division with the remainder shared by agreement between all the counties the county fire warden represents.
- (3)
 - (a) The division shall employ all county fire wardens.
 - (b) An individual who is employed by a county as a county fire warden on or before January 1, 2016, is not subject to the requirement to be employed by the division.

Enacted by Chapter 174, 2016 General Session

65A-8-210 Fire control on state-owned lands -- Responsibilities of state agencies.

- (1) The division shall abate the public nuisance caused by wildfire on state-owned forest, range, watershed, and wildland urban interface lands.
- (2) State agencies responsible for the administration of state-owned lands shall recognize the need for providing wildland fire protection and the responsibility for reducing the risk of wildfire through appropriate wildfire prevention, preparedness, and mitigation actions.

Amended by Chapter 174, 2016 General Session

65A-8-211 Closed fire season -- Notice -- Violations -- Burning permits -- Personal liability -- Exemptions from burning permits.

- (1)
 - (a) The period from June 1 to October 31 of each year is a closed fire season throughout the state.
 - (b) The state forester may advance or extend the closed season wherever and whenever that action is necessary.
 - (c) The alteration of the closed season is done by posting the appropriate proclamation in the courthouse of each county seat for at least seven days in advance of the date the change is effective.
- (2) During the closed season it is a class B misdemeanor to set on fire, or cause to be set on fire, any flammable material on any forest, brush, range, grass, grain, stubble, or hay land without:
 - (a) first securing a written permit from the state forester or a designated deputy; and
 - (b) complying fully with the terms and conditions prescribed by the permit.
- (3) The county fire warden, or the county sheriff in a county that has not entered into a cooperative agreement as described in Section 65A-8-203, shall issue burning permits using the form prescribed by the division.
- (4)
 - (a) The burning permit does not relieve an individual from personal liability due to neglect or incompetence.
 - (b) A fire escaping control of the permittee that necessitates fire control action or does injury to the property of another is prima facie evidence that the fire was not safe.
- (5) The state forester, the state forester's designees, and the county sheriffs may refuse, revoke, postpone, or cancel permits when they find it necessary in the interest of public safety.
- (6)

- (a) A burning permit is not required for the burning of fence lines on cultivated lands, canals, or irrigation ditches if:
 - (i) the burning does not pose a threat to forest, range, or watershed lands;
 - (ii) due care is used in the control of the burning; and
 - (iii) the individual notifies the nearest fire department of the approximate time the burning will occur.
- (b) Failure to notify the nearest fire department of the burning as required by this section is a class B misdemeanor.
- (7) A burning conducted in accordance with Subsection (6) is not a reckless burning under Section 76-6-104 unless the fire escapes control and requires fire control action.

Amended by Chapter 174, 2016 General Session

65A-8-212 Power of state forester to close hazardous areas -- Violations of an order closing an area.

- (1)
 - (a) If the state forester finds conditions in a given area in the state to be extremely hazardous, "extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger, he shall close those areas to any forms of use by the public, or to limit that use.
 - (b) The closure shall include, for the period of time the state forester considers necessary, the prohibition of open fires, and may include restrictions and prohibitions on:
 - (i) smoking;
 - (ii) the use of vehicles or equipment;
 - (iii) welding, cutting, or grinding of metals;
 - (iv) fireworks;
 - (v) explosives; or
 - (vi) the use of firearms for target shooting.
 - (c) Any restriction or closure relating to firearms use:
 - (i) shall be done with support of the duly elected county sheriff of the affected county or counties;
 - (ii) shall undergo a formal review by the State Forester and County Sheriff every 14 days; and
 - (iii) may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.
 - (d) The State Forester and County Sheriff shall:
 - (i) agree to the terms of any restriction or closure relating to firearms use;
 - (ii) reduce the agreement to writing;
 - (iii) sign the agreement indicating approval of its terms and duration; and
 - (iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review and at termination of the restriction or closure.
- (2) Nothing in this chapter prohibits any resident within the area from full and free access to his home or property, or any legitimate use by the owner or lessee of the property.
- (3) The order or proclamation closing or limiting the use in the area shall set forth:
 - (a) the exact area coming under the order;
 - (b) the date when the order becomes effective; and
 - (c) if advisable, the authority from whom permits for entry into the area may be obtained.
- (4) Any entry into or use of any area in violation of this section is a class B misdemeanor.

Amended by Chapter 307, 2013 General Session