

Effective 5/3/2023

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

- (1) As used in this section:
 - (a) "Applicable public safety answering point" means a public safety answering point or dispatch center, as those terms are defined in Section 63H-7a-103, for the jurisdiction where a burning occurs.
 - (b) "Cultivated land" means land that is not enrolled in a conservation reserve program that is readily identifiable as:
 - (i) land whose soil is loosened or broken up for the raising of crops;
 - (ii) land used for the raising of crops; or
 - (iii) pasturage that is artificially irrigated.
 - (c) "Field" means land where grass, grain, stubble, or hay may be burned in accordance with this section.
 - (d) "Red Flag Warning" means a weather forecast issued by the National Weather Service on a publicly available website or notification system indicating that weather conditions associated with the outbreak of wildfires are occurring.
- (2)
 - (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 state forester shall notify the public of the alteration of the closed season by posting the appropriate proclamation on the division's website and on the Utah Public Notice Website, created in Section 63A-16-601, for at least seven days in advance of the date the change is effective.
- (3) During the closed fire season, an individual is guilty of a class C misdemeanor if the individual sets on fire, or causes to be set on fire:
 - (a)
 - (i) a forest;
 - (ii) brush;
 - (iii) range;
 - (iv) a field;
 - (v) cultivated land; or
 - (vi) a debris pile; and
 - (b) without:
 - (i) first securing a written permit from the state forester or a deputy designated by the state forester;
 - (ii) complying fully with the permit described in Subsection (3)(b)(i); and
 - (iii) subject to Subsection (10), first notifying the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.
- (4) During a period when a Red Flag Warning is issued, an individual is guilty of a class C misdemeanor if the individual sets on fire, or causes to be set on fire:
 - (a)
 - (i) a forest;
 - (ii) brush;
 - (iii) range;
 - (iv) a field;

- (v) cultivated land;
 - (vi) a fence line;
 - (vii) a canal; or
 - (viii) an irrigation ditch; and
- (b) without:
- (i) first securing a written permit from the state forester or a deputy designated by the state forester;
 - (ii) complying fully with the permit described in Subsection (4)(b)(i); and
 - (iii) subject to Subsection (10), first notifying the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.
- (5) The state forester or the state forester's designee shall issue burning permits using the form prescribed by the division.
- (6)
- (a) The burning permit does not relieve an individual from personal liability as a result of damage caused by the fire.
 - (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 due care was not used in the burning and that the fire was not safe.
- (7) The following may refuse, revoke, postpone, or cancel a permit if the person finds that it is necessary in the interest of public safety:
- (a) the state forester;
 - (b) a state forester's designee; or
 - (c) a county sheriff if there is no cooperative agreement with the division as described in Section 65A-8-203.
- (8)
- (a) Except for during a Red Flag Warning as described in Subsection (4)(a), a burning permit is not required:
 - (i) for the burning within 10 feet of:
 - (A) fence lines on cultivated lands;
 - (B) the banks of canals; or
 - (C) the banks of irrigation ditches; and
 - (ii) if:
 - (A) the burning does not pose a threat to forest, range, or watershed lands;
 - (B) due care is used in the control of the burning; and
 - (C) subject to Subsection (10), the individual notifies the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.
 - (b) For a burning with or without a permit, an individual is guilty of a class C misdemeanor if the individual fails to notify, subject to Subsection (10), the state forester, the state forester's designee, or the applicable safety answering point of a burning as required by this section.
- (9) A burning conducted in accordance with Subsection (8) is not a reckless burning under Section 76-6-104 unless the fire escapes control and requires fire control action.
- (10)
- (a) The state forester or state forester's designee shall annually determine the notification process for a jurisdiction after receiving approval from the following for the jurisdiction:
 - (i) the applicable municipal chief, county fire warden, or state forester's designee; and
 - (ii) the governing body of the one or more applicable public safety answering points.

- (b) On June 1 of each year, beginning with June 1, 2023, the state forester or state forester's designee shall publish for each jurisdiction the notification process adopted under Subsection (10)(a) on the division's website and on the Utah Public Notice Website created in Section 63A-16-601.
- (c) If the state forester or state forester's designee cannot determine the notification process for a jurisdiction, a person is required to notify the applicable public safety answering point.

Amended by Chapter 153, 2023 General Session