

WILDLAND FIRE POLICY ADMINISTRATIVE RULES

R652-1-200. Definitions.

1. Animal unit (AU): is equal to one cow and calf or their equivalent.
2. Beneficiaries: the citizens of the state of Utah.
3. Beds of navigable lakes and streams: the lands lying under or below the "ordinary high water mark" of a navigable lake or stream.
4. Carrying capacity: the acreage required to adequately provide forage for an animal unit (AU) for a specified period without inducing range deterioration.
5. Commercial gain: compensation, in money, in services, or other valuable consideration rendered or products provided.
6. Comprehensive Management Plans: plans prepared for sovereign lands that guide the implementation of sovereign land management objectives.
7. Cooperative Agreement: an agreement between the Division and an eligible entity wherein the eligible entity agrees to meet a Participation Commitment and provide Initial Attack for wildland fire, and FFSL agrees to pay for wildland fire suppression costs following a Delegation of Fire Management Authority as found in Utah Code Section 65A-8-203.1, as well as all aviation asset costs charged to the incident.
8. Cultural Resources: prehistoric and historic materials, features, artifacts.
9. Cultural Resource Survey:
 - (a) Class I: literature and site files search.
 - (b) Class II: sample field surface survey or inspection.
 - (c) Class III: intensive field surface survey.
10. Director: the director of the Division of Forestry, Fire and State Lands
11. Division: Division of Forestry, Fire and State Lands
12. Easements: a right to use or restrict use of land or a portion of a real property interest in the land for a particular purpose granted by the division to a qualified applicant including but not limited to transmission lines, canals and ditches, pipelines, tunnels, fences, roads and trails.
13. Eligible entity: 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

(c) 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:

(i) providing wildland fire suppression services; and

(ii) paying for the cost of wildland suppression services.

14. Initial attack: actions taken by the first resources to arrive at a wildland fire incident, including size-up, patrolling, monitoring, holding action, or aggressive suppression action.

15. Management Plans: Comprehensive Management Plans, Resource Plans and Site-Specific Plans.

16. Municipality: a city, town, or metro township.

17. Ordinary high water mark: the high water elevation in a lake or stream at the time of statehood, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes or other tests as may be applied by the courts. This "ordinary high water mark" may not have been adjudicated in the courts.

18. Paleontological Resources (fossils): the remains or traces of organisms, plant or animal, that have been preserved by various means in the earth's crust.

19. Paleontological Resource Survey: an evaluation of the scientific literature or previous paleontological survey reports to assess the potential for discovery or impact to fossils by a proposed development, followed by a pedestrian examination of the exposed geological formations suspected of containing fossils of significance.

20. Paleontological Site: an exposure of a geologic formation having fossil evidence of scientific value as determined by professional consensus.

21. Participation Commitment: prevention, preparedness, and mitigation actions and expenditures approved by the Division undertaken by a participating entity to reduce the risk of wildland fire.

22. Participating Entity: an eligible entity with a cooperative agreement.

23. Planning Unit: the geographical basis of a general or comprehensive management plan; a consolidated block of state land, or a group of isolated state land sections or parts thereof, or a combination of blocks and isolated sections which provide common management opportunities or which have common commercial gain, natural or cultural resource concerns.

24. Preliminary Development Plan: the submittal, both of maps and written material, which

shall identify and determine the extent and scope on a proposed unit development of the entire acreage under application. It shall illustrate, in phases, the development of the entire acreage and include a time table of the estimated schedule of development. The preliminary development plan shall identify density, open space, environmental reserves, site features, services and utilities, land ownerships, local master planning, zoning compliance and basic engineering feasibility.

25. Preliminary Development Plat: a plat which shall outline and specify the number of dwelling units, the type of dwelling units, the anticipated location of the transportation systems and description of water and sewage systems for the developed area on a Unit Development Lease.

26. State lands: all lands administered by the division.

27. Range condition: the relation between current and potential condition of the range site.

28. Record of Decision: a written finding describing a division action, relevant facts, and the basis upon which the decision for action was made.

29. Resource Plans: a plan prepared for a specific resource, such as mining, timber, grazing or real estate.

30. Rights-of-Entry: a right to a specific, non-depleting land use granted by the division to a qualified applicant that is temporary in nature, generally not to exceed one year in duration, including but not limited to seismic and land surveys, research sites, access across sovereign lands, and other temporary types of land uses.

31. Significant site: any site which is designated by the Division of State History as scientifically worthy of specific management.

32. Site: archaeological and cultural sites are places of prehistoric and historic human activity including aboriginal mounds, forts, buildings, earth works, village locations, burial grounds, ruins, caves, petroglyphs, pictographs, or other locations which are the source of prehistoric cultural features and specimens.

33. Site Specific Plans: plans prepared for sovereign lands which provide direction for specific actions. Site-specific plans shall include Records of Decision in either narrative or summary form.

34. Sovereign lands: those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty or land received in exchange for sovereign lands.

35. Survey Report: report of the various site files and field surveys or inspections.

36. Wildland: an area where:

(a) development is essentially non-existent, except for roads, railroads, power line or similar transportation facilities; and

(b) structures, if any, are widely scattered.

37. Wildland fire: a fire that consumes:

(a) wildland; or

(b) Wildland-urban interface, as defined in Section 65A-8a-102.

R652-120-200. Responsibilities of Division.

1. The division in consultation with local authorities, the division shall determine and execute the best method for protecting private and public property by:

(a) except as provided by Subsection (1), preventing,

preparing for, or mitigating the origin and spread of fire on nonfederal forest, range, watershed or wildland urban interface land in the state;

(b) encouraging a private landowner to conserve, protect, and manage forest or other land throughout the state;

(c) taking action the division considers appropriate to manage wildland fire and protect life and property on the non-federal forest, range, watershed, or wildland urban interface land within the state.

(d) implementing a limited fire suppression strategy, including allowing a fire to burn within limited or modified suppression, if the division determines the strategy is appropriate for a specific area or circumstance.

(e) the state forester shall make certain that appropriate action is taken to control wildland fires on unincorporated non-federal forest, range, watershed and wildland urban interface lands.

2. The division may enter into a cooperative agreement with a county, municipality, or other eligible entity to provide financial and wildland fire management assistance.

R652-120-300. Responsibilities of Counties.

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.

(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.

(c) a county may assign the responsibilities described in Subsections (a) and (b) to a fire service provider or an eligible entity through delegation, contract, interlocal agreement or another method.

2. 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.

3. In all cases the 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 rule either independently or in cooperation with the state forester.

4. A county that has entered into a cooperative agreement, as described in 65A-8-203 and R652-120-600, the primary responsibility for wildfire management is the division, upon the delegation of fire management authority as described in 65A-8-203.1 and R652-120-1200.

5. The county sheriff and the county sheriff's organization shall maintain cooperative support with the fire management organization.

6. Each county that participates in a cooperative agreement with the division as described in 65A-8-203 and R652-120-600(5), shall be represented by a county fire warden at minimum during the closed fire season, as described in Section 65A-8-211, except as provided in Subsections (1)(b) and (c).

7. A county may enter into a cooperative agreement with the division to receive financial and wildland fire management cooperation and assistance.

R652-120-400. Responsibilities of Municipalities.

1. A municipality shall abate the public nuisance caused by wildfire on forest, range, watershed, and wildland urban interface lands within the boundaries of the municipality if the land is privately owned or owned by the municipality.

(a) reduce the risk of wildfire to unincorporated, privately owned or 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 unincorporated privately owned or municipality owned forest, range, watershed, and wildland urban interface land within the municipality's fire

protection boundaries.

(c) a municipality may assign the responsibilities described in Subsections (a) and (b) to a fire service provider or an eligible entity through delegation, contract, interlocal agreement or another method.

2. A municipality may enter into a cooperative agreement with the division to receive financial and wildland fire management cooperation and assistance.

R652-121-200. Wildland Suppression Fund.

1. The Wildland Fire Suppression Fund may be used to pay the costs of wildland fire suppression on state-owned land and for wildland fire suppression costs except initial attack costs on non-federal land within the jurisdiction of a county, municipality, or other eligible entity that has entered into a cooperative agreement with the Division and is complying with the terms of the cooperative agreement.

2. A county, municipality, or other eligible entity without a cooperative agreement or one with a revoked cooperative agreement shall be responsible to pay for all wildland fire suppression costs on non-federal land within its jurisdiction within 90 days after receiving a bill from the Division for such costs, subject to a right to an informal appeal to the State Forester. Any appeal must be submitted to the Division in writing within 90 days of receiving the bill. The State Forester may conduct an investigation, hold an informal hearing, or request additional information before making a final decision.

R652-121-300. Payment of Wildland Fire Suppression Fund Costs.

1. After an eligible entity has entered into a cooperative agreement with the Division, all wildland fire suppression costs beyond initial attack within the jurisdiction of the eligible entity will be paid by the Wildland Fire Suppression Fund.

2. Area managers will verify to the state forester in writing that an eligible entity has a cooperative agreement.

3. Each participating entity must make a good faith effort to recover suppression costs for negligently-caused wildland fires. If the participating eligible entity refuses to make a good faith effort to recover suppression costs from a negligent party for a wildland fire without approval from the State Forester, the suppression costs for that fire shall not be eligible for payment from the Wildland Fire Suppression Fund. The State Forester will determine if a good faith effort has been made to recover suppression cost.

4. Wildland fire suppression costs recovered under Section 65A-3-3 will be repaid to the Wildland Fire Suppression Fund.

R652-121-400. Revocation of Participation in Fund.

1. Participation in the Wildland Fire Suppression Fund may be revoked for failure to:
 - (a) enter into a cooperative agreement with the Division,
 - (b) comply with the terms of the cooperative agreement with the Division; or
 - (c) fulfill its participation commitment.
2. The division will notify a participating entity in writing of any breach of the cooperative agreement
3. Failure to remedy a breach may result in revocation of the entity's cooperative agreement pursuant to the terms of the cooperative agreement which shall preclude participation in the Wildland Fire Suppression Fund.
4. The revocation decision may be informally appealed to the State Forester within 30 days of the notice. The State Forester may conduct an investigation, hold an informal hearing, or request additional information. The final decision of the State Forester will be sent to the entity.

R652-121-500. Withdrawal from Participation in Fund.

1. An entity may withdraw from participation in the fund by revoking its cooperative agreement the end of the agreement's term by:
 - (a) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or
 - (b) failing to sign and return its annual financial statement as described in R652-120-400(5)(e), unless an extension has been granted by the Division.

R652-121-600. Reinstatement of Participation in Fund.

1. An eligible entity that voluntarily withdrew participation in the Wildland Fire Suppression Fund pursuant to R652-121-500 may enter into a new cooperative agreement with the Division and become a participating entity.
2. An eligible entity whose participation in the Wildland Fire Suppression Fund was revoked by the division pursuant to R652-121-400 may enter into a new cooperative agreement with the Division and become a participating entity only after remedying the breach that resulted in the revocation. If the revocation was due to failure to fulfill the participation commitment for one or more years, the eligible entity shall agree to fulfill the previous participation commitments during the first three-year term of the new cooperative agreement in addition to the participation commitments for each year of the

cooperative agreement.

R652-122-200. Cooperative Agreements.

1. The governing body of any eligible entity, as defined in R652-1-200(13), may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance, as described in 65A-8-2, Fire Control.

2. The Division shall determine the provisions of the cooperative agreement consistent with statutory requirements.

3. 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.

4. An eligible entity may not receive financial cooperation or financial assistance until the cooperative agreement is executed by the eligible entity and the division.

(a) 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 the cooperative agreement with the division.

5. A county or municipality that has not entered into a cooperative agreement with the division, as described herein, or whose Cooperative Agreement has been revoked shall be responsible for wildland fire costs within the county or municipality jurisdiction as outlined in R652-120-1000.

6. In order to enter into a cooperative agreement an eligible entity shall:

(a) if the eligible entity is a county, adopt and enforce unincorporated land and wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission.

(b) agree to require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet the minimum standards for wildland fire training, certification and suppression equipment based upon nationally accepted standards as specified by the division;

(c) agree to a participation commitment which requires investment in prevention, preparedness, and mitigation efforts as agreed to with the division intended to reduce the eligible entity's risk of catastrophic wildfire;

(d) agree to file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs.

(e) agree to return the financial statement described in Subsection (6), signed by the chief executive officer of the eligible entity, to the division on or before the date set by the division.

(f) if the eligible entity is a county, agree to have a designated fire warden as described in

65A-8-209.1.

7. The division shall:

(a) send an Annual Statement to each eligible entity that details the eligible entity's participation commitment for the coming fiscal year, including the preparedness, prevention, and mitigation actions agreed to in Subsection 6(c).

(b) financial statements shall be effective for one calendar year, beginning on the date set by the division.

R652-122-300. Determination of Participation Commitment.

1. The Division shall determine a participation commitment for each entity with a cooperative agreement participating in the wildland fire suppression fund.

2. The participation commitment will be calculated by adding the Risk Assessment by Acres to the Historic Fire Cost Average in each jurisdiction.

3. An entity may appeal the participation commitment determination to the State Forester by informing the division in writing of the entity's disagreement with the Division's determination and stating the reasons for the disagreement.

4. The State Forester may hold an informal hearing or request additional information. After deliberation, the State Forester shall make a final determination of the participation commitment and communicate it to the entity.

R652-122-400. Determination of Risk Assessment by Acres.

1. The Risk Assessment by Acres is calculated using the Division's "Utah Wildfire Risk Assessment Portal" (UWRAP).

(a) county "high risk" (red) acres are assessed at \$0.40/acre and county "medium risk" (yellow) acres are assessed at \$0.30/acre.

(b) municipal "high risk" (red) acres are assessed at \$3.50/acre and municipal "medium risk" (yellow) acres are assessed at \$2.00/acre

2. UWRAP will be updated every two years by FFSL, as data sources and technology allow, to maintain the most current and defensible risk assessment.

R652-122-500. Determination of Historic Fire Cost Average.

1. Only wildfire suppression costs that are accrued and paid by the State on behalf of a participating entity are counted toward that entity's Historic Fire Cost Average, this includes State-paid costs after a Delegation of Fire Management Authority and Transfer of Fiscal Responsibility has occurred.

2. The historic fire cost average is calculated on a rolling ten-year average, dropping the highest and lowest cost years and adjusting for inflation (using the CPI); therefore, each ten-year average will have eight data points.

3. The historic fire cost average includes only suppression costs for which that entity who has fire suppression responsibility and taxation authority.

4. A county's historic fire cost average will only include state-paid suppression costs on all unincorporated land other than federal and state.

5. A municipality's historic fire cost average will only include state-paid suppression costs on all incorporated land other than federal and state.

6. An entity with both county and municipality responsibilities will include state paid suppression costs on all unincorporated land other than federal, within a county and state paid suppression costs on all incorporated land other than federal, within their jurisdiction.

R652-122-600. Annual Participation Commitment Report.

1. An entity may meet its participation commitment requirement either through direct expenditure of funds, or by "in-kind" expenditures in support of prevention, preparedness, or mitigation efforts including, but not limited to, prevention material costs, fuels crew labor costs, and other expenditures determined by the Division to be eligible towards the participation commitment.

2. The participating entity is responsible to record and account for its participation commitment actions and expenditures and to provide an annual accounting to the Division for review and approval.

3. The participating entity shall provide an annual participation commitment report to the Division detailing the actual expenditures and activities in compliance with the participation commitment during the fiscal year.

4. The Division may request additional information related to participation expenditures and actions.

R652-122-700. Participation Commitment Carry Over.

1. The value of Participation Commitment actions may, in certain instances, "carry-over" to the next fiscal year with the approval of the respective FFSL Area Manager.

2. It is the responsibility of the Participating Eligible Entity to receive approval from their respective FFSL Area Manager in advance of pursuing a carry-over and account for, track and report the carry-over from year to year.

3. Decisions of the Area Manager may be appealed to the State Forester. The State Forester may hold a hearing or request additional information before making a final decision.

R652-122-800. Annual Participation Commitment Statement.

1. Every year, after the fire business and accounting for the prior year is finalized, the Division will send to each participating eligible entity an Annual Financial Statement containing the determination of the calculated Participation Commitment for the entity's coming fiscal year.

2. The Participating Eligible entity's chief executive officer must then sign and return the Annual Participation Commitment Statement to the Division by a due date determined by the Division, thereby acknowledging the entity's participation for the coming fiscal year.

3. Unless the division has approved an extension, if an entity fails to return the signed Annual Participation Commitment Statement to the Division by the due date, the cooperative agreement shall be considered revoked and the entity shall be withdrawn from participation in the wildland fire suppression fund.

R652-122-900. Revocation of Cooperative Agreement.

1. An eligible entity may revoke a cooperative agreement before the end of the agreement's term by:

(a) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(b) failing to sign and return its annual participation commitment statement as described in R652-120-400(5)(e), unless an extension has been granted by the division.

2. A cooperative agreement may not be revoked before the end of the fiscal year if the participating entity signed and returned an Annual Participation Commitment Statement. The revocation will be effective the next fiscal year.

3. The Division may revoke a cooperative agreement only pursuant to Division rules and the terms of the cooperative agreement.

4. An eligible entity whose cooperative agreement has been revoked shall be responsible for the costs of wildfire suppression within in its jurisdiction for any time period during which the entity failed to meet the requirements of the cooperative agreement.

R652-122-1000. Allocation of Wildland Fire Suppression Costs to Entity Without Valid Cooperative Agreement.

1. The division shall bill an entity that has not entered into a cooperative agreement with the division as described in Section 65A-8-203, or whose agreement has been revoked pursuant to R652-121-900, for the cost of wildfire suppression accrued by the state within the jurisdiction of that entity.

2. The cost of wildfire suppression to an entity that has not entered into a cooperative agreement with the division as described in Section 65A-8-203, or whose agreement has been revoked pursuant to R652-121-900, shall be calculated by determining the number of acres burned within the borders of the entity, 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.

3. An entity that receives a bill from the division, pursuant to these rules, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the bill, subject to the entity's right to appeal, as described in Subsection 65A-8-203(5)(b)(vi).

R652-122-1100. Accounting System for Determining Suppression Costs.

Suppression costs for a wildland fire shall be calculated by determining the number of acres burned within the jurisdictional boundary of the entity, 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.

R652-122-1200. Delegation of Fire Management Authority.

1. Delegation of Fire Management Authority occurs when:

- (a) State or Federally owned lands are involved in the incident; or,
- (b) firefighting resources are ordered through an Interagency Fire Center (beyond "pre-planned dispatch"); or,
- (c) at the request of the participating entity (local fire official on scene) having jurisdiction; or,
- (d) at the discretion of the State Forester after consultation with local authorities.

R652-122-1300. Minimum Standards for County Wildland Fire Ordinance.

(1) The division uses the International Urban Wildland Interface Code as a basis for establishing the minimum standards discussed in this document.

(2) The Division incorporates by reference the 2003 International Code Council Urban-Wildland Interface Code as the minimum standard for wildland fire ordinance.