**R652. Natural Resources; Forestry, Fire and State Lands.**

**R652-122. Cooperative Agreements.**

**R652-122-100. Authority.**

This rule implements Subsection 65A-8-203(5)(b), which authorizes the division to make rules concerning cooperative agreements; Subsection 65A-8-203(4)(a) and Subsection 65A-8-203(3)(b) which require the division to establish minimum standards for a county wildland fire ordinance and to specify minimum standards for wildland fire training, certification, and wildland fire suppression equipment; Section 65A-8-203.1, which defines delegation of fire management authority, and Section 65A-8-203.2, which concerns billing for costs of wildland fire suppression for counties or municipalities that do not have a cooperative agreement with the division.

**R652-122-200. Cooperative Agreements.**

1. The governing body of any eligible entity, as defined in Subsection 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 Title 65A-8-2, Part 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.

(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.

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entered into a cooperative agreement with the division, as described in Title R652, or whose Cooperative Agreement has been revoked shall be responsible for wildland fire costs within the county or municipality jurisdiction as outlined in Section R652-120-1000.

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

(ii) meet the eligibility entity's participation commitment by making direct payments to the division; or

(iii) do a combination of Subsections R652-122-200(5)(d)(i) and (ii);

(e) agree to return the financial statement described in Subsection (5), 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 Section 65A-8-209.1.

6. 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 (5)(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 per acre and county "medium risk" (yellow) acres are assessed at $0.30 per acre.

(b) municipal "high risk" (red) acres are assessed at $3.50 per acre and municipal "medium risk" (yellow) acres are assessed at $2 per 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: prevention material costs, fuels crew labor costs, and other expenditures determined by the division to be eligible toward 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 the annual participation commitment statement as described in Section R652-122-800, 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 Section 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 Section 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 nonfederal 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 Title R652, 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 nonfederal 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";

(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 with these exceptions:

(a) Section 101.1 Delete;

(b) Section 101.3 Delete "The extent of this regulation is intended to be tiered commensurate with the relative level of hazard present";

(c) Section 101.3 Second paragraph, substitute "development and" for "unrestricted";

(d) Section 101.4 Delete Exception;

(e) Section 101.5 In the Exception, delete "section 402.3";

(f) Section 105.2 Delete "For buildings or structures erected for temporary uses, see Appendix A, Section A108.3, of this code";

(g) Section 105.2 Add a number 15 to the list of activities that need a permit to read "Or other activities as determined by the code official";

(h) Section 202 Delete "Critical Fire Weather, Ignition-Resistant Construction Class 1,2 and 3, Urban-Wildland Interface area";

(i) Section 202 "See Critical Fire Weather" from Fire Weather definition;

(j) Section 202 Replace Fuel, Heavy definition with "Vegetation consisting of round wood 3 inches (76 mm) or larger in diameter. The amount of fuel (vegetation) would be 6 tons per acre or greater";

(k) Section 202 Replace Fuel, Light definition with "Vegetation consisting of herbaceous and round wood less than 1/4 inch (6.4 mm) in diameter. The amount of fuel (vegetation) would be 1/2 ton to 2 tons per acre";

(l) Section 202 Replace Fuel, Medium definition with "Vegetation consisting of round wood 1/4 to 3 inches (6.4mm to 76 mm) in diameter. The amount of fuel (vegetation) would be 2 to 6 tons per acre";

(m) Section 202 Add the term Legislative Body with the following definition: "The governing body of the political jurisdiction administering this code";

(n) Section 202 Add the term Brush, Tall with the following definition: "Arbor-like varieties of brush species and/or short varieties of broad-leaf trees that grow in compact groups or clumps. These groups or clumps reach heights of 4 to 20 feet. In Utah, this includes primary varieties of oak, maples, chokecherry, serviceberry and mahogany, but may also include other species";

(o) Section 202 Add the term Brush, Short with the following definition: "Low-growing species that reach heights of 1 to 3 feet. Sagebrush, snowberry, and rabbitbrush are some varieties";

(p) Section 202 Add the term Wildland Urban Interface with the following definition "The line, area or zone where structures or other human development (including critical infrastructure that if destroyed would result in hardship to communities meet or intermingle with undeveloped wildland or vegetative fuel";

(q) Section 301 Delete;

(r) Section 302.1 Replace with " The legislative body shall declare the urban-wildland interface areas within the jurisdiction. The urban wildland interface areas shall be based on the maps created through Section 302";

(s) Section 302.2 Replace with " In cooperation, the code official and the Division of Forestry, Fire and State Lands (FFSL) wildfire representative, per participating agreement between county and FFSL, will create or review Wildland-Urban Interface area maps, to be recorded and field with the clerk of the jurisdiction. These areas shall become effective immediately thereafter";

(t) Section 302.3 Add "and the FFSL wildfire representative" between "official" and "shall";

(u) Section 402.3 Delete;

(v) Section 403.2 Delete Exception;

(w) Section 403.3 Replace "typically used to respond to that location" to "to protect structures and wildlands";

(x) Section 403.7 Add "It will be up to the code official to ascertain the standard based on local fire equipment, grade not to exceed 12%";

(y) Section 404.1 Delete "or as required . . . with Section 402.1.2";

(z) Section 404.1 Delete Exception;

(aa) Section 404.3 Delete "The draft site shall have emergency . . . with Section 402";

(bb) Section 404.5 Replace "as follows: determined" with "by the local jurisdiction. NFPA 1142 may be used as a reference";

(cc) Section 404.5.1 Delete entire section including Exception;

(dd) Section 404.5.2 Delete entire section including Exception;

(ee) Section 404.6 Replace with "The water system required by this code can only be considered conforming for purposes of determining the level of ignition-resistant construction (see Table 503.1)";

(ff) Section 404.8 Delete the words "and hydrants";

(gg) Section 404.9 After " . . . periodic tests as required by the code official." add the sentences "Code official shall establish a periodic testing schedule. Costs are to be covered by the water provider";

(hh) Section 404.9 After the last sentence, add "Mains and appurtenances shall be installed in accordance with NFPA 24. Water tanks for private fire protection shall be installed in accordance with NFPA 22. Costs are to be covered by the water provider.";

(ii) Section 404.10.3 After ". . . dependent on electrical power" add "supplied by power grid" and after " . . . demands shall provide . . . " add "functional";

(jj) Section 404.10.3 Replace "Exceptions" in its entirety with "When approved by the code official, a standby power supply is not required where the primary power service to the stationary water supply facility is underground or on-site generator.";

(kk) Section 405 Before Section 405.1 Add "The purpose of the plan is to provide a basis to determine overall compliance with this code, for determination of Ignition-Resistant Construction (IRC), see Table 503.1, and for determining the need for alternative materials and methods";

(ll) Section 405.1 After "When required by a code official, a fire protection plan shall be prepared" add the words "and approved before the first building permit issuance or subdivision approval";

(mm) Chapter 5, Delete Table 502;

(nn) Section 505.2 Replace "Class B roof covering" with "Class A roof covering";

(oo) Section 506.2 replace "Class C roof covering" with "Class A roof covering";

(pp) Section 602 Delete;

(qq) Section 603.2 Replace "for the purpose of Table 503.1" with "for individual buildings or structures on a property";

(rr) Section 603.2 Replace "10 feet or to the property line" with "30 feet or to the property line";

(ss) Section 603.2 replace "along the grade" with "on a horizontal plane";

(tt) Section 603.2 replace "may be increased" with "may be modified";

(uu) Section 603.2 Delete "crowns of trees and structures";

(vv) Add new Section 603.3 titled "Community fuel modification zones" with the following text: Fuel modification zones to protect new communities shall be provided when required by the code official in accordance with Section 603 to reduce fuel loads adjacent to communities and structures;

(ww) Add new Section 603.3.1 titled "Land ownership" with the following text: Fuel modification zone land used to protect a community shall be under the control of an association or other common ownership instrument for the life of the community to be protected;

(xx) Add new Section 603.3.2 titled "Fuel modification zone plans" with the following text: Fuel modification zone plans shall be approved before fuel modification work and shall be placed on a site grading plan shown in plan view. An elevation plan shall also be provided to show the length of the fuel modification zone on the slope. Fuel modification zone plans shall include, the following:

(i) Plan showing existing vegetation;

(ii) Photographs showing natural conditions before work is performed;

(iii) Grading plan showing location of proposed buildings and structures, and setbacks from top of slope to all buildings or structures;

(yy) Section 604.1 Add "annually, or as necessary" after "maintained";

(zz) Section 604.4 First sentence should read "Individual trees and/or small clumps of trees or brush crowns extending to within . . . ";

(aaa) Section 607 change "20 feet" to "30 feet";

(bbb) Chapter 7 Delete;

(ccc) Appendix A is included as optional recommendations rather than mandatory;

(ddd) Appendix B Last sentence changed to "Continuous maintenance of the clearance is required.";

(eee) Appendix C Below title, add "This appendix is to be used to determine the fire hazard severity.";

(fff) Appendix C-A1. Change to "One-lane road in, one-lane road out" and points change to 1, 10 and 15;

(ggg) Appendix C-A2. Points change to 1 and 5;

(hhh) Appendix C-A3 Change to 3 entries: Road grade 5% or less, road grade 5-10% and road grade greater than 10%, with points at 1,5 and 10, respectively;

(iii) Appendix C-A4. Points are now 1, 5, 8 and 10;

(jjj) Appendix C-A5 Change to "Present but unapproved" for 3 points, and "not present" for 5 points;

(kkk) Appendix C-B1. Fuel Types change to "Surface" and "Overstory". Surface has 4 categories -- Lawn/noncombustible, Grass/short brush, Scattered dead/down woody material, Abundant dead/down woody material; and the points are 1, 5, 10 and 15, respectively. Overstory has 4 categories -- Deciduous trees (except tall brush), Mixed deciduous trees and tall brush, Clumped/scattered conifers and/or tall brush, Contiguous conifer and/or tall brush; and the points are 3, 10, 15 and 20, respectively;

(lll) Appendix C-B2. The 3 categories are changed to "70% or more of lots completed", "30% to 70% of lots completed" and "Less than 30% of lots completed" and the points would be 1, 10 and 20, respectively;

(mmm) Appendix C-C Replace first category with "Located on flat, base of hill, or setback at crest of hill"; Replace second category with "On slope with 0-20%grade"; Replace third category with "On slope with 21-30% grade"; Replace fourth category with "On slope with 31%grade or greater"; Add fifth category that reads "At crest of hill with unmitigated vegetation below"; replace the points with 1, 5, 10, 15 and 20 for the five categories;

(nnn) Appendix C-E. Change the points to 1, 5, 10, 15 and 20;

(ooo) Appendix C-F. Drop down the second and third categories to third and fourth and insert new second category to read "Combustible siding/no deck"; The points for the four categories are 1, 5, 10 and 15;

(ppp) The new totals for "Moderate Hazard" are 50-75; "High Hazard" are 76-100; "Extreme Hazard" are 101+; and

(qqq) Appendices D-H Delete.

**R652-122-1400. Minimum Standards for Wildland Fire Training.**

1. At a minimum, the Participating Entity will ensure that firefighters providing Initial Attack to wildland fire within the Participating Entity's jurisdiction will be trained in NWCG S130 Firefighter Training and S190 Introduction to Wildland Fire Behavior. FFSL also recommends S215 Wildland Urban Interface Firefighting Operations.

(a) This includes firefighters who are directly involved in the suppression of a wildland fire; firefighters on scene who have supervisory responsibility or decision-making authority over those involved in the suppression of a wildland fire; or individuals who have fire suppression responsibilities within close proximity of the fire perimeter.

(b) This does not include a person used as a courier, driver of a vehicle not used for fire suppression, or a person used in a non-tactical support or other peripheral function not in close proximity to a wildland fire.

(c) Upon the Delegation of Fire Management Authority, Firefighters not certified by the Utah Fire Certification Council as Wildland Firefighter I will be released from Initial Attack or reassigned to other firefighting duties.

**R652-122-1500. Minimum Standards for Wildland Firefighting Equipment.**

(1) The following standards are applicable to equipment used by fire departments representing those counties who have cooperative wildland fire protection agreements with the state. This includes county fire departments and other fire departments which are contracted with the counties to provide fire protection on private wildland. The Utah Division of Forestry, Fire and State Lands has determined that this standard be met by June 1, 2006.

(2) Engines and water tenders used on private wildland fires within the county's jurisdiction will meet the standard for the type of equipment plus appropriate hand tools and water handling equipment as determined by the National Wildfire Coordinating Group.

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| --- | --- | --- | --- |
| TABLE 1  Engines | | | |
| Component | Type 1 | Type 2 | Type 3 |
| Pump Rating - gpm | 1,000+ @ 150 psi | 250+ @ 150 psi | 150+ @ 250 psi |
| Tank Capacity - gal | 400+ | 400+ | 500+ |
| Hose 2.5 inch | 1,200 ft | 1,000 ft | -- |
| Hose 1.5 inch | 400 ft | 500 ft | 500 ft |
| Hose 1 inch | -- | -- | 500 ft |
| Ladders | 48 ft | 48 ft | -- |
| Master Stream -- gpm | 500 | -- | -- |
| Personnel - minimum | 4 | 3 | 2 |
|  |  |  |  |
| Component | Type 4 | Type 5 | Type 6 |
| Pump Rating - gpm | 50 @ 100 psi | 50 @ 100 psi | 30 @ 100 psi |
| Tank Capacity - gal | 750+ | 400 - 750 | 150 - 400 |
| Hose 2.5 inch | -- | -- | -- |
| Hose 1.5 inch | 300 ft | 300 ft | 300 ft |
| Hose 1 inch | 300 ft | 300 ft | 300 ft |
| Ladders | -- | -- | -- |
| Master Stream -- gpm | -- | -- | -- |
| Personnel - minimum | 2 | 2 | 2 |

|  |  |  |  |
| --- | --- | --- | --- |
| TABLE 2  Water Tenders | | | |
| Component | Type 1 | Type 2 | Type 3 |
| Tank Capacity - gal | 5,000+ | 2,500+ | 1,000+ |
| Pump Capacity - gpm | 300+ | 200+ | 200+ |
| Off Load Capacity - gpm | 300+ | 200+ | 200+ |
| Max Refill Time -- min | 30 | 20 | 15 |
| Personnel tactical/nontactical | 2/1 | 2/1 | 2/1 |

**KEY: minimum standards, wildland urban interface, cooperative agreements**

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