

Prescribed Burning - Landowner Responsibility and Liability | Newsletters | Publications | Forestry | Extension

Gabrielle R. Harden

04/06/2021

Prescribed Burning - Landowner Responsibility and Liability



Prescribed fire is a common land management practice used in the western United States by public land managers and private landowners alike. Many people who live in the western United States live within or near wildlands, this zone is called the wildland urban interface (WUI). The use of prescribed fire by landowners on their private land, when used carefully and in the proper conditions, can reduce unwanted fuels and help prevent wildfires from spreading into the WUI and threatening the homes and lives of those who live there.

Although less than one percent of prescribed burns turn into wildfires, burning in unfavorable conditions can lead to residential fire disasters. This means that landowners must act responsibly by determining what kind of burn permit is required, informing local fire dispatch, monitoring weather on the burn day, putting in any needed fuel breaks, having a back-up plan if the fire gets out of control, having a constant water supply, always tending the fire, and ensuring the fire is out cold before leaving the area.

Having a proper burn plan in place is vital for mitigating associated risks.

It is important that landowners understand their liability if their prescribed burn goes astray. Many states offer limited liability to landowners if certain requirements and regulations are met, meaning they would only be held financially accountable for a certain amount of damage. If the landowner fails to follow regulations, they are liable for the total amount of damages and may even face criminal penalties.

But even when fire managers or landowners apply all the rules and lessons, weather can change in unexpected ways and lead to unintended consequences. Through the use of insurance, landowners can protect themselves from an escaped prescribed burn. Landowners with a general farm and ranch liability policy are often covered for damages that may result from prescribed burning, however, the landowner is responsible for thoroughly reviewing their policy and contacting their insurance company to ensure that these potential damages are covered under their policy. If prescribed burning coverage is not included, the landowner may be able to specifically cover it through the purchase of additional policies.

Unfortunately, Utah appears to be an uncertain liability state, meaning the laws and administrative codes are vague regarding prescribed fire. This can make it challenging for landowners to find reasonably priced insurance that covers prescribed burning, if at all. The uncertain liability paired with a challenge to find insurance can deter landowners who wish to utilize prescribed burning on their land, as they could be held liable for damages should an accident occur, even when proper precautions were taken.