

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0115.01 Kate Meyer x4348

SENATE BILL 13-083

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SENATE SPONSORSHIP

Roberts and Nicholson,

HOUSE SPONSORSHIP

Gerou and Levy,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101      **CONCERNING THE CREATION OF A PRESCRIBED BURNING PROGRAM**  
102            **UNDER THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE**  
103            **DEPARTMENT OF PUBLIC SAFETY, AND, IN CONNECTION**  
104            **THEREWITH, SPECIFYING THE POWERS AND DUTIES OF THE**  
105            **DIVISION AND ITS DIRECTOR WITH RESPECT TO THAT PROGRAM.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Lower North Fork Wildfire Commission.** The bill creates the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

"Colorado Prescribed Burning Act", which:

- ! Requires the division of fire prevention and control (division) in the department of public safety to implement a prescribed burning program (program);
- ! Authorizes the director of the division (director) to promulgate rules to implement the program and instructs the director to conduct rulemaking with regard to certain program provisions, including the adoption of standards that will constitute the minimum criteria for prescribed burns conducted in the state and the processes for certifying persons as prescribed burn managers;
- ! Empowers the division to enter into multiagency agreements for fuel reduction initiatives; and
- ! Establishes policies related to wildfires or potential wildfires resulting from the escape of prescribed fires.

The bill makes conforming amendments as follows:

- ! **Section 4** of the bill relocates, and makes nonsubstantive changes to, certain defined terms relating to the division and prescribed burning. As a result of these relocations, **section 3** makes technical amendments.
- ! House Bill 12-1283 transferred fire and wildfire prevention, suppression, response, and risk-mitigation duties, including duties relating to prescribed burning, from the state forest service to the division. **Sections 8 and 9** update statutes that contain obsolete allusions to the state forest service with respect to implementation authority over prescribed burning.
- ! **Sections 10, 11, 12, and 13** make conforming amendments to reflect the renaming of the firefighter, first responder, and hazardous materials responder certification fund to the firefighter, first responder, hazardous materials responder, and prescribed fire training and certification fund.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Colorado Prescribed Burning Act".

4           **SECTION 2. Legislative declaration.** (1) The general assembly  
5 hereby finds, determines, and declares that:

6           (a) Forest land constitutes significant economic, biological, and  
7 aesthetic resources of statewide importance;

1 (b) Colorado's ever-increasing population situates urban  
2 development directly adjacent to fire-prone forest lands;

3 (c) Wildfires threaten public health and safety and can cause  
4 catastrophic damage to public and private resources, including clean air,  
5 clean water, fish and wildlife habitat, timber resources, forest soils, scenic  
6 beauty, recreational opportunities, economic and employment  
7 opportunities, and structures and other improvements;

8 (d) Prescribed burning, which reduces naturally occurring  
9 vegetative fuels within a variety of ecosystems, including forests and  
10 grasslands, reduces the risk and severity of major wildfire, thereby  
11 lessening the threat of fire and the resulting loss of life and property in  
12 those areas, including as follows:

13 (I) When applied to forest lands, prescribed burning serves to  
14 reduce hazardous accumulations of fuels, prepare sites for both natural  
15 and artificial forest regeneration, improve wildlife habitat, control insects  
16 and disease, and perpetuate fire-dependent ecosystems;

17 (II) When prescribed burning is used to manage fuels in  
18 wildland-urban interface areas, it substantially reduces the threat of  
19 damaging wildfire in urban communities; and

20 (III) Prescribed burning promotes resource enhancement when  
21 used on private as well as local, state, and federally owned public use  
22 lands such as parks, forests, and wildlife refuges; and

23 (e) Therefore, prescribed burning is a resource protection and land  
24 management tool that benefits the safety of the public, Colorado's  
25 forest-related resources, the environment, and the economy of the state.

26 (2) The general assembly further finds and declares that, as  
27 Colorado's population continues to grow, a variety of competing interests

1 have placed limitations on prescribed burn activity, thus reducing the  
2 aforementioned benefits to the state and its citizens.

3 (3) The general assembly therefore:

4 (a) Acknowledges the natural role of fire in forests and other  
5 ecosystems, and finds and declares it is in the public interest to use fire  
6 as a management tool, under controlled conditions, to reduce the threat  
7 of wildfires by maintaining healthy forests and reducing high risk levels  
8 of vegetative fuel;

9 (b) Finds that it is in the public interest to establish and maintain  
10 a complete, cooperative, and coordinated wildfire protection and  
11 suppression program for the state; and

12 (c) Declares that the purpose of this act is to authorize and  
13 promote the safe, effective, and appropriate use of prescribed burning for  
14 community protection, forest health, and environmental and wildlife  
15 management purposes, while ensuring that best efforts are undertaken  
16 with respect to precautionary measures to assist in confining the fires to  
17 a predetermined area.

18 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-1201,  
19 **amend** (1) (a) as follows:

20 **24-33.5-1201. Division of fire prevention and control - creation**  
21 **- public school construction and inspection section - health facility**  
22 **construction and inspection section - legislative declaration.**

23 (1) (a) There is hereby created within the department the division of fire  
24 prevention and control. ~~referred to in this part 12 as the "division"~~. The  
25 head of the division is the director of the division of fire prevention and  
26 control. ~~referred to in this part 12 as the "director"~~. The executive director  
27 shall appoint the director pursuant to section 13 of article XII of the state

1 constitution. ~~The executive director shall appoint~~ Only those persons  
2 meeting the qualifications described in paragraph (b) of this subsection  
3 (1) ARE ELIGIBLE FOR APPOINTMENT.

4 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-1202,  
5 **amend** (3.4), (3.5), (3.7), and (8); and **add** (3.6), (3.8), (3.9), (8.3), and  
6 (8.4) as follows:

7 **24-33.5-1202. Definitions.** As used in this part 12, unless the  
8 context otherwise requires:

9 (3.4) ~~"Cross-connection control device" means an installation,~~  
10 ~~device, or assembly located between the water supply and fire~~  
11 ~~suppression piping to prevent the undesirable reversal in the flow of water~~  
12 ~~from a real or potential source of contamination back to the potable water~~  
13 ~~supply. A cross-connection control device is also referred to as a back~~  
14 ~~flow preventer~~ "CONTROLLED AGRICULTURAL BURN" MEANS A TECHNIQUE  
15 USED IN FARMING TO CLEAR THE LAND OF ANY EXISTING CROP RESIDUE,  
16 KILL WEEDS AND WEED SEEDS, OR REDUCE FUEL ACCUMULATION AND  
17 DECREASE THE LIKELIHOOD OF A FUTURE FIRE.

18 (3.5) ~~"Emergency fire fund" means the emergency fire fund~~  
19 ~~created in section 24-33.5-1220 that was first established in 1967 with~~  
20 ~~voluntary contributions from counties and the Denver water board;~~  
21 ~~administered by a nine-person committee composed of county~~  
22 ~~commissioners, sheriffs, fire chiefs, and the director; and used for the~~  
23 ~~purpose of paying costs incurred as a result of controlling a wildfire by~~  
24 ~~any of parties contributing moneys to the fund, in accordance with the~~  
25 ~~intergovernmental agreement for participation in the Colorado emergency~~  
26 ~~fire fund~~ "CROSS-CONNECTION CONTROL DEVICE" MEANS AN  
27 INSTALLATION, DEVICE, OR ASSEMBLY LOCATED BETWEEN THE WATER

1 SUPPLY AND FIRE SUPPRESSION PIPING TO PREVENT THE UNDESIRABLE  
2 REVERSAL IN THE FLOW OF WATER FROM A REAL OR POTENTIAL SOURCE OF  
3 CONTAMINATION BACK TO THE POTABLE WATER SUPPLY. A  
4 CROSS-CONNECTION CONTROL DEVICE IS ALSO REFERRED TO AS A BACK  
5 FLOW PREVENTER.

6 (3.6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

7 (3.7) ~~"Fire department" means the duly authorized fire protection~~  
8 ~~organization of a town, city, county, or city and county, a fire protection~~  
9 ~~district, or a metropolitan district or county improvement district that~~  
10 ~~provides fire protection~~ "DIVISION" MEANS THE DIVISION OF FIRE  
11 PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY  
12 CREATED IN THIS ARTICLE.

13 (3.8) "EMERGENCY FIRE FUND" MEANS THE EMERGENCY FIRE FUND  
14 CREATED IN SECTION 24-33.5-1220 THAT WAS FIRST ESTABLISHED IN 1967  
15 WITH VOLUNTARY CONTRIBUTIONS FROM COUNTIES AND THE DENVER  
16 WATER BOARD; ADMINISTERED BY A NINE-PERSON COMMITTEE COMPOSED  
17 OF COUNTY COMMISSIONERS, SHERIFFS, FIRE CHIEFS, AND THE DIRECTOR;  
18 AND USED FOR THE PURPOSE OF PAYING COSTS INCURRED AS A RESULT OF  
19 CONTROLLING A WILDFIRE BY ANY OF THE PARTIES CONTRIBUTING MONEYS  
20 TO THE FUND, IN ACCORDANCE WITH THE INTERGOVERNMENTAL  
21 AGREEMENT FOR PARTICIPATION IN THE EMERGENCY FIRE FUND.

22 (3.9) "FIRE DEPARTMENT" MEANS THE DULY AUTHORIZED FIRE  
23 PROTECTION ORGANIZATION OF A TOWN, CITY, COUNTY, OR CITY AND  
24 COUNTY, A FIRE PROTECTION DISTRICT, OR A METROPOLITAN DISTRICT OR  
25 COUNTY IMPROVEMENT DISTRICT THAT PROVIDES FIRE PROTECTION.

26 (8) ~~"Principal" means an individual having a position of~~  
27 ~~responsibility in any entity acting as a fire suppression contractor;~~

1 ~~including but not limited to any manager, director, officer, partner, owner,~~  
2 ~~or shareholder owning ten percent or more of the stocks of any such entity~~  
3 "MASTICATED FUELS" MEANS FUELS, SUCH AS BRUSH, SMALL-DIAMETER  
4 TREES, AND SLASH, THAT HAVE BEEN GROUND OR CHEWED INTO SMALL  
5 PIECES OF WOODY MATERIAL THROUGH A MECHANICAL WILDLAND FUELS  
6 TREATMENT PROCESS, AND GENERALLY LEFT TO CARPET THE GROUND,  
7 FORMING A RELATIVELY DENSE, COMPACT LAYER OF WOODY MATERIAL.

8 (8.3) "PRESCRIBED BURNING" MEANS THE APPLICATION OF FIRE, IN  
9 ACCORDANCE WITH A WRITTEN PRESCRIPTION FOR VEGETATIVE FUELS,  
10 UNDER SPECIFIED ENVIRONMENTAL CONDITIONS WHILE FOLLOWING  
11 APPROPRIATE PRECAUTIONARY MEASURES THAT ENSURE PUBLIC SAFETY  
12 AND THAT IS CONFINED TO A PREDETERMINED AREA TO ACCOMPLISH  
13 PLANNED FIRE OR LAND MANAGEMENT OBJECTIVES. THE TERM EXCLUDES  
14 CONTROLLED AGRICULTURAL BURNS.

15 (8.4) "PRINCIPAL" MEANS AN INDIVIDUAL HAVING A POSITION OF  
16 RESPONSIBILITY IN ANY ENTITY ACTING AS A FIRE SUPPRESSION  
17 CONTRACTOR, INCLUDING ANY MANAGER, DIRECTOR, OFFICER, PARTNER,  
18 OWNER, OR SHAREHOLDER OWNING TEN PERCENT OR MORE OF THE STOCKS  
19 OF ANY SUCH ENTITY.

20 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-1203, **add**  
21 (1) (t) as follows:

22 **24-33.5-1203. Duties of division.** (1) The division shall perform  
23 the following duties:

24 (t) IMPLEMENT A PRESCRIBED BURNING PROGRAM, INCLUDING  
25 CONDUCTING FUEL REDUCTION INITIATIVES, SUCH AS PRESCRIBED  
26 BURNING OR MECHANICAL OR CHEMICAL TREATMENT, ON ANY AREA OF  
27 WILDLAND WITHIN THE STATE THAT THE DIRECTOR REASONABLY

1 DETERMINES IS SUSCEPTIBLE TO WILDFIRE. SUCH INITIATIVES SHALL BE  
2 CONDUCTED IN COOPERATION AND AGREEMENT WITH LOCAL, STATE, OR  
3 FEDERAL AGENCIES, OR PRIVATE PERSONS OR CONCERNS, PURSUANT TO  
4 SECTIONS 24-33.5-1217 AND 24-33.5-1217.7.

5 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-1217,  
6 **amend** (2) introductory portion, (3), and (4); and **add** (5), (6), (7), (8),  
7 (9), and (10) as follows:

8 **24-33.5-1217. Prescribed burning program - training and**  
9 **certification of prescribed burn managers - rules - fees.** (2) The  
10 TRAINING AND CERTIFICATION standards adopted under this section shall:

11 (3) ~~Nothing in this section requires~~ ON AND AFTER DECEMBER 1,  
12 2013, a ~~user~~ of prescribed fire ~~to~~ MUST be ATTENDED BY A PERSON  
13 certified by the division PURSUANT TO THIS SECTION AND RULES  
14 PROMULGATED THERETO OR OTHERWISE AUTHORIZED UNDER SECTION  
15 24-33.5-1217.5 (1) (c).

16 (4) ~~As used in this section, unless the context otherwise requires:~~  
17 THE DIRECTOR, BY RULE, SHALL ESTABLISH A FEE AT AN AMOUNT  
18 SUFFICIENT TO RECOVER ALL DIRECT COSTS THAT THE DIVISION INCURS IN  
19 PROVIDING TRAINING TO AND PROCESSING APPLICATIONS FOR PERSONS  
20 SEEKING CERTIFICATION AS CERTIFIED PRESCRIBED BURN MANAGERS  
21 PURSUANT TO THIS SECTION. THE FEES SO COLLECTED SHALL BE  
22 DEPOSITED INTO THE FIREFIGHTER, FIRST RESPONDER, HAZARDOUS  
23 MATERIALS RESPONDER, AND PRESCRIBED FIRE TRAINING AND  
24 CERTIFICATION FUND CREATED IN SECTION 24-33.5-1207.

25 (a) ~~"Controlled agricultural burn" means a technique used in~~  
26 ~~farming to clear the land of any existing crop residue, kill weeds and~~  
27 ~~weed seeds, or reduce fuel buildup and decrease the likelihood of a future~~



1 fire.

2 (b) "Natural ignition fires" mean wildland fires that are ignited by  
3 lightning or some other natural source.

4 (c) ~~"Prescribed burning" means the application of fire, in  
5 accordance with a written prescription for vegetative fuels, under  
6 specified environmental conditions while following appropriate  
7 precautionary measures that ensures public safety and that the fire is  
8 confined to a predetermined area to accomplish planned fire or land  
9 management objectives. The term excludes controlled agricultural burns.~~

10 (5) (a) THE DIRECTOR, IN CONSULTATION WITH THE COLORADO  
11 STATE FOREST SERVICE AS DESCRIBED IN PART 3 OF ARTICLE 31 OF TITLE  
12 23, C.R.S., AND IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE:

13 (I) MAY ADOPT ANY SUCH RULES AS THE DIRECTOR DEEMS  
14 NECESSARY TO ADMINISTER THE PRESCRIBED BURNING PROGRAM; AND

15 (II) SHALL ADOPT RULES AND STANDARDS:

16 (A) PERTAINING TO THE TRAINING AND CERTIFICATION OF  
17 PRESCRIBED BURN MANAGERS, INCLUDING TRAINING COMPONENTS;  
18 APPLICATION PROCESSES; QUALIFICATION FOR AND TERMS AND DURATIONS  
19 OF CERTIFICATION; TYPES OF CERTIFICATION, IF APPLICABLE; GROUNDS  
20 AND PROCESSES FOR RENEWAL, SUSPENSION, AND REVOCATION OF  
21 CERTIFICATIONS; AND TRAINING, CERTIFICATION, AND RENEWAL FEES; AND

22 (B) FOR THE USE OF PRESCRIBED BURNING OCCURRING ON STATE  
23 LANDS OR CONDUCTED BY STATE AGENCIES ON PRIVATE LANDS, PURSUANT  
24 TO SECTION 24-33.5-1217.5.

25 (b) THE RULES AND STANDARDS PROMULGATED PURSUANT TO  
26 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF  
27 THIS SUBSECTION (5) CONSTITUTE THE MINIMUM STANDARDS FOR ALL

1       PRESCRIBED BURNING CONDUCTED IN THE STATE, EXCEPT FOR PRESCRIBED  
2       BURNING CONDUCTED BY AN AGENCY OF THE FEDERAL GOVERNMENT.

3               (6) (a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (c) OF THIS  
4       SUBSECTION (6), THE DIRECTOR MAY ENTER INTO AN AGREEMENT WITH AN  
5       OWNER OR OTHER PERSON HAVING LEGAL CONTROL OF PROPERTY  
6       LOCATED WITHIN ANY WILDLAND, INCLUDING A PUBLIC AGENCY WITH  
7       REGULATORY OR NATURAL RESOURCE MANAGEMENT AUTHORITY OVER  
8       ANY SUCH PROPERTY, FOR THE USE OF PRESCRIBED BURNING OR OTHER  
9       HAZARDOUS FUEL REDUCTION CONSISTENT WITH THIS ARTICLE TO  
10      PREVENT HIGH-INTENSITY WILDLAND FIRES BY REDUCING THE VOLUME  
11      AND CONTINUITY OF WILDLAND FUELS OR TO ACHIEVE OTHER GOALS,  
12      INCLUDING FOREST IMPROVEMENT, CONSISTENT WITH THIS ARTICLE.

13              (b) THE DIRECTOR SHALL NOT ENTER INTO AN AGREEMENT FOR  
14      PRESCRIBED BURNING PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION  
15      (6) UNLESS THE DIRECTOR FIRST DETERMINES THAT THE PUBLIC BENEFITS  
16      REASONABLY ESTIMATED TO BE DERIVED FROM THE PRESCRIBED BURNING  
17      PURSUANT TO THE AGREEMENT WILL BE EQUAL TO OR GREATER THAN THE  
18      REASONABLY FORESEEABLE DAMAGE THAT COULD RESULT FROM THE  
19      PRESCRIBED BURNING.

20              (c) (I) WHERE AN AGENCY OF THE FEDERAL GOVERNMENT  
21      ASSUMES PRIMARY RESPONSIBILITY FOR CONDUCTING A PRESCRIBED BURN  
22      IN THE STATE, NEITHER THE AGENCY NOR ANY OTHER AGENCY OF THE  
23      FEDERAL GOVERNMENT IS REQUIRED TO COMPLY WITH THE RULES AND  
24      STANDARDS PROMULGATED PURSUANT TO SUB-SUBPARAGRAPH (B) OF  
25      SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS  
26      SECTION.

27              (II) IF THE DIRECTOR HAS ENTERED INTO AN AGREEMENT WITH AN

1 AGENCY OF THE FEDERAL GOVERNMENT AS OF THE EFFECTIVE DATE OF  
2 THIS SECTION OF THE TYPE DESCRIBED IN PARAGRAPH (a) OF THIS  
3 SUBSECTION (6), NOTHING IN THIS SECTION SHALL BE CONSTRUED TO  
4 REQUIRE A NEW AGREEMENT OR MODIFICATION OF AN EXISTING  
5 AGREEMENT.

6 (7) (a) THE DIVISION SHALL COOPERATE WITH AND PROVIDE  
7 ADVISORY SERVICES TO ANY PERSON DESIRING TO USE PRESCRIBED  
8 BURNING, THE OBJECTIVE OF WHICH IS THE PREVENTION OF  
9 HIGH-INTENSITY WILDLAND FIRES, WATERSHED MANAGEMENT,  
10 VEGETATION MANAGEMENT, FOREST IMPROVEMENT, WILDLIFE HABITAT  
11 IMPROVEMENT, OR ANY OTHER OBJECTIVE THAT IS DEEMED TO BE IN THE  
12 PUBLIC INTEREST, OR ANY COMBINATION OF SUCH OBJECTIVES.

13 (b) THE DIVISION SHALL PROVIDE INFORMATION AND TECHNICAL  
14 ASSISTANCE TO UNITS OF LOCAL GOVERNMENT, UPON REQUEST FROM THE  
15 LOCAL GOVERNMENT, CONCERNING PRESCRIBED BURNING.

16 (c) THE DIVISION MAY PROVIDE STANDBY FIRE PROTECTION TO ANY  
17 PERSON USING PRESCRIBED BURNING IN A MANNER DEEMED TO BE IN THE  
18 PUBLIC INTEREST, TO SUCH EXTENT AS PERSONNEL, FIRE CREWS, AND  
19 FIREFIGHTING EQUIPMENT ARE REQUESTED AND AVAILABLE.

20 (8) THE DIVISION SHALL, SUBJECT TO SUFFICIENT FUNDING,  
21 INSTITUTE A PUBLIC INFORMATION CAMPAIGN TO PROMOTE TO THE  
22 GENERAL PUBLIC THE BENEFITS OF PRESCRIBED BURNING.

23 (9) NOTHING IN THIS ARTICLE GRANTS THE DIVISION AUTHORITY  
24 OVER ANY HAZARDOUS FUEL REDUCTION OTHER THAN PRESCRIBED  
25 BURNING. FOREST HEALTH, FOREST IMPROVEMENT, VEGETATION AND  
26 WATERSHED MANAGEMENT, AND HAZARDOUS FUEL REDUCTION OTHER  
27 THAN PRESCRIBED BURNING REMAIN RESPONSIBILITIES VESTED IN THE

1 STATE FOREST SERVICE.

2 (10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

3 (a) IN PERFORMING THE DUTIES ASSIGNED TO HIM OR HER UNDER  
4 SUBSECTIONS (5) AND (6) OF THIS SECTION, THE DIRECTOR SHALL CONSULT  
5 WITH THE COLORADO STATE FOREST SERVICE AS DESCRIBED IN PART 3 OF  
6 ARTICLE 31 OF TITLE 23, C.R.S.

7 (b) THE PRESCRIBED BURNING STANDARDS ADOPTED BY THE  
8 DIRECTOR PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II)  
9 OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION SHALL BE  
10 CONSISTENT WITH EXISTING LAWS AND PROCESSES THAT BAN, REGULATE,  
11 OR HAVE DEVELOPED RECOMMENDATIONS CONCERNING OPEN BURNING,  
12 INCLUDING SECTIONS 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)  
13 (a) (II) AND (6) (a) (III), 25-7-106 (7) AND (8), 25-7-123, 29-20-105.5, AND  
14 30-11-124, C.R.S.

15 (c) NOTHING IN THIS SECTION OR SECTION 24-33.5-1217.5,  
16 24-33.5-1217.7, OR 24-33.5-1217.9 SHALL BE CONSTRUED TO AFFECT THE  
17 AUTHORITY OF A COUNTY GOVERNMENT TO DEVELOP OR ADMINISTER AN  
18 OPEN BURNING PERMIT SYSTEM FOR THE PURPOSE OF SAFELY DISPOSING OF  
19 SLASH IN ACCORDANCE WITH THE PROVISIONS OF SECTION 30-15-401 (1)  
20 (n.5), C.R.S.

21 **SECTION 7.** In Colorado Revised Statutes, **add** 24-33.5-1217.5,  
22 24-33.5-1217.7, and 24-33.5-1217.9 as follows:

23 **24-33.5-1217.5. Minimum prescribed burning standards.**

24 (1) THE PRESCRIBED BURNING STANDARDS ADOPTED BY THE DIRECTOR  
25 PURSUANT TO SECTION 24-33.5-1217 (5) (a) (II) (B) MUST, AT A MINIMUM:

26 (a) ENSURE THAT PRESCRIBED BURNING IS THE CONTROLLED  
27 APPLICATION OF FIRE TO VEGETATIVE FUELS UNDER SPECIFIED

1 ENVIRONMENTAL CONDITIONS IN ACCORDANCE WITH A WRITTEN  
2 PRESCRIPTION PLAN, WHICH PLAN:

3 (I) IS DESIGNED TO CONFINE THE FIRE TO A PREDETERMINED AREA;

4 (II) IS DESIGNED TO ACCOMPLISH PLANNED LAND MANAGEMENT  
5 OBJECTIVES; AND

6 (III) CONFORMS TO THIS ARTICLE AND THE RULES AND STANDARDS  
7 ADOPTED IN ACCORDANCE WITH THIS ARTICLE;

8 (b) INCLUDE INFORMATION ON PLANNING, PREPARING, AND  
9 IMPLEMENTING SAFE, EFFECTIVE PRESCRIBED BURNING, WHICH  
10 INFORMATION:

11 (I) IS BASED ON, AND USES AS A MINIMUM STANDARD, THE  
12 "INTERAGENCY PRESCRIBED FIRE PLANNING AND IMPLEMENTATION  
13 PROCEDURES GUIDE", AS AMENDED, PUBLISHED BY THE NATIONAL  
14 WILDFIRE COORDINATING GROUP, OR BY ANY SUCCESSOR GROUP; AND

15 (II) CONTAINS SPECIFIC CRITERIA WITH RESPECT TO MASTICATED  
16 FUELS;

17 (c) REQUIRE AT LEAST ONE PERSON, WHO MUST BE EITHER  
18 CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN MANAGER OR  
19 QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP STANDARDS AS  
20 A PRESCRIBED BURN BOSS AT THE LEVEL COMMENSURATE WITH THE  
21 COMPLEXITY OF THE BURN, TO BE PRESENT ON SITE:

22 (I) DURING THE CONDUCT OF THE PRESCRIBED BURN; AND

23 (II) (A) UNTIL THE FIRE IS ADEQUATELY CONFINED TO  
24 REASONABLY PREVENT ESCAPE OF THE FIRE FROM THE AREA INTENDED TO  
25 BE BURNED; OR

26 (B) UNTIL THE PRESCRIBED BURNING IS COMPLETED AND ALL FIRE  
27 IS DECLARED TO BE OUT;

1 (d) ESTABLISH APPROPRIATE GUIDELINES FOR SIZE OF BURNING  
2 CREWS SUFFICIENT TO:

3 (I) CONDUCT THE BURN IN ACCORDANCE WITH THE PRESCRIPTION  
4 PLAN; AND

5 (II) PROVIDE ADEQUATE PROTECTION FOR THE SAFETY OF PERSONS  
6 AND OF ADJACENT PROPERTY;

7 (e) EVALUATE ALTERNATIVES TO PRESCRIBED BURNING, SUCH AS  
8 MECHANICAL TREATMENT, AND GUIDE THE USER THROUGH THE SAFE AND  
9 PRUDENT APPLICATION OF PRESCRIBED BURNING, WHEN IT IS DETERMINED  
10 TO BE AN APPROPRIATE METHOD; AND

11 (f) SET FORTH REQUIREMENTS FOR RECORDKEEPING, TIMELY  
12 NOTIFICATION TO ADJACENT LAND OWNERS AND LOCAL AUTHORITIES, AND  
13 PUBLIC INFORMATION CAMPAIGNS.

14 (2) ALL USERS OF PRESCRIBED FIRE SHALL COMPLY WITH THE  
15 APPLICABLE PROVISIONS OF THE "COLORADO AIR POLLUTION PREVENTION  
16 AND CONTROL ACT", PART 1 OF ARTICLE 7 OF TITLE 25, C.R.S., AND ITS  
17 IMPLEMENTING REGULATIONS, AND SHALL OBTAIN A PERMIT FOR  
18 PRESCRIBED FIRE PURSUANT TO SECTION 25-7-123, C.R.S.

19 (3) THE RULES AND STANDARDS ADOPTED BY THE DIRECTOR MUST  
20 BE PROMULGATED IN CONSULTATION WITH THE COLORADO STATE FOREST  
21 SERVICE AS DESCRIBED IN PART 3 OF ARTICLE 31 OF TITLE 23, C.R.S., THE  
22 COLORADO PRESCRIBED FIRE COUNCIL, OR AN ANALOGOUS SUCCESSOR  
23 ORGANIZATION, AND OTHER SUBJECT MATTER EXPERTS AS THE DIRECTOR  
24 DEEMS APPROPRIATE. IN PROMULGATING SUCH RULES AND STANDARDS,  
25 THE DIRECTOR SHALL CONSIDER THE CURRENT STATE OF RESEARCH AND  
26 BEST MANAGEMENT PRACTICES FOR PRESCRIBED BURNING.

27 **24-33.5-1217.7. Multiagency agreement for cooperative use of**

1 **prescribed fire - rules - gifts, grants, and donations.** (1) THE DIRECTOR  
2 MAY ENTER INTO A MASTER AGREEMENT WITH LOCAL, STATE, OR FEDERAL  
3 LAND MANAGEMENT AGENCIES TO CONDUCT JOINT PRESCRIBED BURNING  
4 OPERATIONS ON WILDLANDS AND FEDERAL LANDS WHERE THE DIRECTOR  
5 DETERMINES THAT THE OPERATIONS SERVE THE PUBLIC INTEREST AND ARE  
6 BENEFICIAL TO THE STATE. THIS MASTER AGREEMENT SHALL BE KNOWN  
7 AS THE "MULTIAGENCY AGREEMENT FOR COOPERATIVE USE OF  
8 PRESCRIBED FIRE" AND MUST ESTABLISH GUIDELINES FOR THE  
9 COOPERATIVE MANAGEMENT OF JOINT PRESCRIBED BURNING OPERATIONS.

10 (2) THE MASTER AGREEMENT ENTERED INTO PURSUANT TO THIS  
11 SECTION MUST REQUIRE THE COMPLETION OF A PROJECT AGREEMENT FOR  
12 EACH INDIVIDUAL PRESCRIBED BURN, WHICH PROJECT AGREEMENTS MUST  
13 INCLUDE THE FOLLOWING:

- 14 (a) A LIST OF ALL PARTICIPANTS IN THE AGREEMENT;
- 15 (b) A JOINT PRESCRIBED BURN PLAN;
- 16 (c) THE PROJECT COSTS TO BE ASSUMED BY EACH PARTICIPANT;
- 17 (d) A SUMMARY OF THE BENEFITS THAT EACH PARTICIPANT WILL  
18 RECEIVE; AND
- 19 (e) AN APPORTIONMENT OF EACH PARTICIPANT'S SUPPRESSION  
20 COSTS IN THE EVENT A WILDFIRE RESULTS FROM THE PROJECT.

21 (3) (a) THE MASTER AGREEMENT MUST PROVIDE THAT THE  
22 FEDERAL GOVERNMENT BEARS THE COSTS OF PROJECTS CONDUCTED ON  
23 WILDLANDS UNDER THE JURISDICTION OF THE FEDERAL GOVERNMENT.

24 (b) THE DIRECTOR MAY WAIVE OR MODIFY THE COST-SHARING  
25 REQUIREMENTS OF THIS SECTION IF THE FUNDING SOURCE PROHIBITS  
26 COST-SHARING REQUIREMENTS.

27 (4) THE DIRECTOR SHALL ADOPT STANDARDS THAT MUST BE USED

1 TO DETERMINE THE STATE'S SHARE OF PROJECT COSTS PURSUANT TO  
2 SUBSECTION (3) OF THIS SECTION AND TO DETERMINE, PURSUANT TO  
3 SUBSECTION (1) OF THIS SECTION, WHETHER THE PUBLIC BENEFITS OF A  
4 POTENTIAL JOINT PRESCRIBED BURNING OPERATION WILL EQUAL OR  
5 EXCEED THE REASONABLY FORESEEABLE DAMAGE THEREFROM.

6 (5) ANY CONTRACT ENTERED INTO PURSUANT TO THIS SECTION  
7 CONDUCTED ON STATE LANDS OR PRESCRIBED BURNING MANAGED BY THE  
8 DIVISION MUST DO ALL OF THE FOLLOWING:

9 (a) VEST IN THE DIRECTOR THE FINAL AUTHORITY TO DETERMINE  
10 THE TIME DURING WHICH WILDLAND FUEL AND STRUCTURAL FIRE HAZARDS  
11 MAY BE BURNED TO MINIMIZE THE RISK OF ESCAPE OF A FIRE SET IN A  
12 PRESCRIBED BURNING OPERATION AND TO FACILITATE MAINTENANCE OF  
13 AIR QUALITY;

14 (b) CLEARLY STATE THE OBLIGATION OF EACH PARTY TO THE  
15 CONTRACT TO PROVIDE, MAINTAIN, AND REPAIR EQUIPMENT AND INDICATE  
16 THE NUMBER OF EACH TYPE OF EQUIPMENT TO BE PROVIDED AND THE  
17 DURATION OF ITS AVAILABILITY;

18 (c) DESIGNATE AN OFFICER OF THE DIVISION AS THE BURN BOSS  
19 WITH FINAL AUTHORITY TO APPROVE AND AMEND THE PLAN AND FORMULA  
20 APPLICABLE TO A PRESCRIBED BURNING OPERATION, TO DETERMINE THAT  
21 THE SITE HAS BEEN PREPARED AND THE CREW AND EQUIPMENT ARE READY  
22 TO COMMENCE THE OPERATION, AND TO SUPERVISE THE WORK  
23 ASSIGNMENTS OF DEPARTMENTAL EMPLOYEES AND ALL PERSONNEL  
24 FURNISHED BY THE PERSON CONTRACTING WITH THE DEPARTMENT UNTIL  
25 THE PRESCRIBED BURNING IS COMPLETED AND ALL FIRE IS DECLARED TO  
26 BE OUT;

27 (d) SPECIFY THE DUTIES OF, AND THE PRECAUTIONS TAKEN BY, THE



1 PERSON CONTRACTING WITH THE DIVISION AND ANY PERSONNEL  
2 FURNISHED BY THAT PERSON;

3 (e) PROVIDE THAT ANY PERSONNEL FURNISHED BY A PERSON  
4 CONTRACTING WITH THE DIVISION TO ASSIST IN ANY ASPECT OF SITE  
5 PREPARATION OR PRESCRIBED BURNING SHALL BE AN AGENT OF THAT  
6 PERSON FOR ALL PURPOSES OF WORKERS' COMPENSATION; AND

7 (f) SPECIFY THE TOTAL COSTS OF THE PRESCRIBED BURNING  
8 OPERATION OR OTHER HAZARDOUS FUEL REDUCTION AND THE PRO RATA  
9 SHARE THEREOF FOR EACH PARTY TO THE CONTRACT.

10 (6) ALL MONEYS RECEIVED BY THE DIVISION PURSUANT TO THIS  
11 SECTION SHALL BE CREDITED TO THE WILDFIRE PREPAREDNESS FUND  
12 CREATED IN 24-33.5-1226 (4) (a).

13 **24-33.5-1217.9. Escaped prescribed fires.** (1) IF A PRESCRIBED  
14 FIRE EXCEEDS THE CONTROL CAPABILITY OF AVAILABLE RESOURCES, THE  
15 FIRE IS DEEMED TO BE ESCAPED AND CONTINGENCY ACTIONS SHALL BE  
16 TAKEN IMMEDIATELY TO BRING THE ESCAPE UNDER CONTROL.

17 (2) THE DIVISION SHALL CONDUCT OR CAUSE TO BE CONDUCTED A  
18 FORMAL REVIEW FOLLOWING ESCAPE OF A PRESCRIBED FIRE. THE PURPOSE  
19 OF THE REVIEW IS TO IDENTIFY THE FACTORS THAT CONTRIBUTED TO THE  
20 ESCAPE, INCLUDING COMPLIANCE WITH POLICY REQUIREMENTS, IN AN  
21 EFFORT TO REDUCE THE OCCURRENCE OR PREVENT FUTURE ESCAPES.

22 (3) WILDFIRES BURNING UNCONTROLLED ON FORESTED, BRUSH, OR  
23 GRASSLAND AREAS THAT POSE A HAZARD TO LIFE AND PROPERTY  
24 CONSTITUTE A PUBLIC NUISANCE. EMPLOYEES OR AGENTS OF THE DIVISION  
25 HAVE THE RIGHT TO ENTER LAND TO CONTROL, SUPPRESS, OR INVESTIGATE  
26 WILDFIRES WITHOUT LIABILITY FOR TRESPASS.

27 (4) IN ORDER TO PREVENT HIGH-INTENSITY OR CATASTROPHIC

1 WILDLAND FIRES, LOCAL, STATE, OR FEDERAL FIREFIGHTERS MAY ENTER  
2 LANDS AND CONSTRUCT FIRE LINES OR FIRE BREAKS TO PREVENT FURTHER  
3 SPREAD OF WILDFIRES, WITHOUT LIABILITY.

4 **SECTION 8.** In Colorado Revised Statutes, 18-13-109, **amend**  
5 (2) (b) introductory portion and (2) (b) (III) as follows:

6 **18-13-109. Firing woods or prairie.** (2) (b) The following  
7 activities ~~shall~~ DO not ~~be~~ CONSTITUTE offenses under this subsection (2):

8 (III) LAWFULLY CONDUCTED prescribed or controlled ~~fires~~  
9 ~~conducted with written authority from the state forester~~ BURNS;

10 **SECTION 9.** In Colorado Revised Statutes, 23-31-313, **amend**  
11 (6) (a) (II) as follows:

12 **23-31-313. Healthy forests - vibrant communities - funds**  
13 **created - repeal.** (6) **Community watershed restoration.** (a) In order  
14 to support communities and land managers in moving from risk reduction  
15 to long-term ecological restoration so that the underlying condition of  
16 Colorado's forests supports a variety of values, particularly public water  
17 supply and high-quality wildlife habitat, the forest service shall:

18 (II) Facilitate and work collaboratively with THE DIVISION OF FIRE  
19 PREVENTION AND CONTROL, landowners, local governments, including  
20 conservation districts created pursuant to article 70 of title 35, C.R.S., and  
21 county noxious weed program administrators and other appropriate  
22 parties, including any electric, gas, and water utilities in the affected area,  
23 to design ~~and safely implement~~ prescribed fire projects and to encourage  
24 increased responsible use of prescribed fire as a tool for restoring healthy  
25 forest conditions consistent with programs established pursuant to section  
26 25-7-106 (7) and (8), C.R.S., AND SECTION 24-33.5-1217, C.R.S. The  
27 forest service shall emphasize providing training and technical assistance

1 for landowners, local communities, and state agencies.

2 **SECTION 10.** In Colorado Revised Statutes, 24-33.5-1204,  
3 **amend** (3) as follows:

4 **24-33.5-1204. Voluntary education and training program -**  
5 **voluntary certification of firefighters, first responders, and**  
6 **hazardous materials responders - advisory board.** (3) The advisory  
7 board shall meet as determined necessary by the chairperson or the  
8 director. The members of the advisory board shall receive no  
9 compensation but shall be reimbursed for necessary travel and other  
10 expenses actually incurred in the performance of their official duties. The  
11 expenses shall be paid from the firefighter, first responder, ~~and~~ hazardous  
12 materials responder, AND PRESCRIBED FIRE TRAINING AND certification  
13 fund created in section 24-33.5-1207.

14 **SECTION 11.** In Colorado Revised Statutes, 24-33.5-1205,  
15 **amend** (1) (g) as follows:

16 **24-33.5-1205. Duties of the director and the advisory board.**  
17 (1) The director has the following duties relating to the voluntary  
18 firefighter, first responder, and hazardous materials responder  
19 certification programs and the fire service education and training  
20 program:

21 (g) To establish fees for the actual direct and indirect costs of the  
22 administration of the firefighter, first responder, and hazardous materials  
23 responder certification programs, which fees shall be assessed against any  
24 person participating in such programs. All fees collected shall be credited  
25 to the firefighter, first responder, ~~and~~ hazardous materials responder, AND  
26 PRESCRIBED FIRE TRAINING AND certification fund created in section  
27 24-33.5-1207.

1           **SECTION 12.** In Colorado Revised Statutes, 24-33.5-1207,  
2   **amend** (1) as follows:

3           **24-33.5-1207. Firefighter, first responder, hazardous materials**  
4   **responder, and prescribed fire training and certification fund -**  
5   **created.** (1) All moneys received by the director pursuant to the  
6   coordination and administration of the firefighter, first responder, ~~and~~  
7   hazardous materials responder, AND PRESCRIBED FIRE TRAINING AND  
8   certification programs and all interest earned on the moneys shall be  
9   deposited in the state treasury in the firefighter, first responder, ~~and~~  
10   hazardous materials responder, AND PRESCRIBED FIRE TRAINING AND  
11   certification fund, which fund is hereby created, and the moneys shall be  
12   used, subject to annual appropriations by the general assembly, for the  
13   purposes set forth in this part 12 and shall not be deposited in or  
14   transferred to the general fund of the state of Colorado or any other fund.

15           **SECTION 13.** In Colorado Revised Statutes, 24-33.5-1211,  
16   **amend** (4) as follows:

17           **24-33.5-1211. Inspector certification.** (4) The director of the  
18   division shall establish a fee to cover the actual direct and indirect costs  
19   of processing applications and issuing and renewing certifications  
20   pursuant to this section. Certification fees collected by the division shall  
21   be credited to the firefighter, first responder, ~~and~~ hazardous materials  
22   responder, AND PRESCRIBED FIRE TRAINING AND certification fund created  
23   in section 24-33.5-1207.

24           **SECTION 14. Safety clause.** The general assembly hereby finds,  
25   determines, and declares that this act is necessary for the immediate  
26   preservation of the public peace, health, and safety.