

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 13-0115.01 Kate Meyer x4348

**SENATE BILL 13-083**

**SENATE SPONSORSHIP**

**Roberts and Nicholson,**

**HOUSE SPONSORSHIP**

**Gerou and Levy,**

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**Senate Committees**

Judiciary

**House Committees**

Agriculture, Livestock, & Natural Resources  
Appropriations

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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**  
106 **AND MAKING AN APPROPRIATION.**

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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>.)*

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.*

HOUSE  
3rd Reading Unamended  
April 22, 2013

HOUSE  
Amended 2nd Reading  
April 19, 2013

SENATE  
3rd Reading Unamended  
February 27, 2013

SENATE  
Amended 2nd Reading  
February 26, 2013

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

1 aesthetic resources of statewide importance;

2 (b) Colorado's ever-increasing population situates urban  
3 development in direct proximity to fire-prone forest lands;

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

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

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

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

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

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

27 (2) The general assembly further finds and declares that, as

1 Colorado's population continues to grow, a variety of competing interests  
2 have placed limitations on prescribed burn activity, thus reducing the  
3 aforementioned benefits to the state and its citizens.

4 (3) The general assembly therefore:

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

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

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

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

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

24 (1) (a) There is hereby created within the department the division of fire  
25 prevention and control. ~~referred to in this part 12 as the "division"~~. The  
26 head of the division is the director of the division of fire prevention and  
27 control. ~~referred to in this part 12 as the "director"~~. The executive director

1 shall appoint the director pursuant to section 13 of article XII of the state  
2 constitution. ~~The executive director shall appoint~~ Only those persons  
3 meeting the qualifications described in paragraph (b) of this subsection  
4 (1) ARE ELIGIBLE FOR APPOINTMENT.

5 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-1202,  
6 **amend** (3.3), (3.4), (3.5), (3.7), and (8); and **add** (3.1), (3.2), (3.6), (3.8),  
7 (3.9), (8.3), and (8.4) as follows:

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

10 (3.1) "CERTIFIED PRESCRIBED BURN MANAGER" MEANS AN  
11 INDIVIDUAL WHO SUCCESSFULLY COMPLETES THE DIVISION'S CERTIFIED  
12 BURNER TRAINING AND CERTIFICATION PROGRAM AND POSSESSES A VALID  
13 CERTIFICATION NUMBER.

14 (3.2) "CIGARETTE" MEANS ANY ROLL FOR SMOKING, WHETHER  
15 MADE WHOLLY OR PARTLY OF TOBACCO OR ANY OTHER SUBSTANCE,  
16 IRRESPECTIVE OF SIZE OR SHAPE, AND WHETHER OR NOT SUCH TOBACCO OR  
17 SUBSTANCE IS FLAVORED, ADULTERATED, OR MIXED WITH ANY OTHER  
18 INGREDIENT, THE WRAPPER OR COVER OF WHICH IS MADE OF PAPER OR ANY  
19 OTHER SUBSTANCE OR MATERIAL EXCEPT TOBACCO.

20 (3.3) "Cigarette" means any roll for smoking, whether made  
21 wholly or partly of tobacco or any other substance, irrespective of size or  
22 shape, and whether or not such tobacco or substance is flavored,  
23 adulterated, or mixed with any other ingredient, the wrapper or cover of  
24 which is made of paper or any other substance or material except tobacco.

25 "CONTROLLED AGRICULTURAL BURN" MEANS A TECHNIQUE USED IN  
26 FARMING OR LIVESTOCK PRODUCTION ON A PARCEL OF LAND THAT MEETS  
27 THE DEFINITION OF AGRICULTURAL LAND, AS THAT TERM IS DEFINED IN

1 SECTION 39-1-102 (1.6) (a), C.R.S., TO CLEAR THE LAND OF ANY EXISTING  
2 NATIVE VEGETATION OR CROP RESIDUE OR KILL WEEDS AND WEED SEEDS.

3 (3.4) ~~"Cross-connection control device" means an installation,~~  
4 ~~device, or assembly located between the water supply and fire~~  
5 ~~suppression piping to prevent the undesirable reversal in the flow of water~~  
6 ~~from a real or potential source of contamination back to the potable water~~  
7 ~~supply. A cross-connection control device is also referred to as a back~~  
8 ~~flow preventer~~ "CONTROLLED DITCH BURN" MEANS A TECHNIQUE USING  
9 FIRE TO CLEAR AND REMOVE VEGETATION, DEBRIS, OR OTHER MATERIAL  
10 FROM DITCHES, CANALS, AND OTHER WATER TRANSPORTATION  
11 STRUCTURES, INCLUDING BANKS AND ACCESS ROADS.

12 (3.5) ~~"Emergency fire fund" means the emergency fire fund~~  
13 ~~created in section 24-33.5-1220 that was first established in 1967 with~~  
14 ~~voluntary contributions from counties and the Denver water board;~~  
15 ~~administered by a nine-person committee composed of county~~  
16 ~~commissioners, sheriffs, fire chiefs, and the director; and used for the~~  
17 ~~purpose of paying costs incurred as a result of controlling a wildfire by~~  
18 ~~any of parties contributing moneys to the fund, in accordance with the~~  
19 ~~intergovernmental agreement for participation in the Colorado emergency~~  
20 ~~fire fund~~ "CROSS-CONNECTION CONTROL DEVICE" MEANS AN  
21 INSTALLATION, DEVICE, OR ASSEMBLY LOCATED BETWEEN THE WATER  
22 SUPPLY AND FIRE SUPPRESSION PIPING TO PREVENT THE UNDESIRABLE  
23 REVERSAL IN THE FLOW OF WATER FROM A REAL OR POTENTIAL SOURCE OF  
24 CONTAMINATION BACK TO THE POTABLE WATER SUPPLY. A  
25 CROSS-CONNECTION CONTROL DEVICE IS ALSO REFERRED TO AS A BACK  
26 FLOW PREVENTER.

27 (3.6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

1           (3.7) ~~"Fire department" means the duly authorized fire protection~~  
2 ~~organization of a town, city, county, or city and county, a fire protection~~  
3 ~~district, or a metropolitan district or county improvement district that~~  
4 ~~provides fire protection~~ "DIVISION" MEANS THE DIVISION OF FIRE  
5 PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY  
6 CREATED IN THIS ARTICLE.

7           (3.8) "EMERGENCY FIRE FUND" MEANS THE EMERGENCY FIRE FUND  
8 CREATED IN SECTION 24-33.5-1220 THAT WAS FIRST ESTABLISHED IN 1967  
9 WITH VOLUNTARY CONTRIBUTIONS FROM COUNTIES AND THE DENVER  
10 WATER BOARD; ADMINISTERED BY A NINE-PERSON COMMITTEE COMPOSED  
11 OF COUNTY COMMISSIONERS, SHERIFFS, FIRE CHIEFS, AND THE DIRECTOR;  
12 AND USED FOR THE PURPOSE OF PAYING COSTS INCURRED AS A RESULT OF  
13 CONTROLLING A WILDFIRE BY ANY OF THE PARTIES CONTRIBUTING MONEYS  
14 TO THE FUND, IN ACCORDANCE WITH THE INTERGOVERNMENTAL  
15 AGREEMENT FOR PARTICIPATION IN THE EMERGENCY FIRE FUND.

16           (3.9) "FIRE DEPARTMENT" MEANS THE DULY AUTHORIZED FIRE  
17 PROTECTION ORGANIZATION OF A TOWN, CITY, COUNTY, OR CITY AND  
18 COUNTY, A FIRE PROTECTION DISTRICT, OR A METROPOLITAN DISTRICT OR  
19 COUNTY IMPROVEMENT DISTRICT THAT PROVIDES FIRE PROTECTION.

20           (8) ~~"Principal" means an individual having a position of~~  
21 ~~responsibility in any entity acting as a fire suppression contractor,~~  
22 ~~including but not limited to any manager, director, officer, partner, owner,~~  
23 ~~or shareholder owning ten percent or more of the stocks of any such entity~~  
24 "MASTICATED FUELS" MEANS FUELS, SUCH AS BRUSH, SMALL-DIAMETER  
25 TREES, AND SLASH, THAT HAVE BEEN GROUND OR CHEWED INTO SMALL  
26 PIECES OF WOODY MATERIAL THROUGH A MECHANICAL WILDLAND FUELS  
27 TREATMENT PROCESS, AND GENERALLY LEFT TO CARPET THE GROUND.

1 (8.3) "PRESCRIBED BURNING" MEANS THE APPLICATION OF FIRE, IN  
2 ACCORDANCE WITH A WRITTEN PRESCRIPTION FOR VEGETATIVE FUELS,  
3 UNDER SPECIFIED ENVIRONMENTAL CONDITIONS WHILE FOLLOWING  
4 APPROPRIATE PRECAUTIONARY MEASURES THAT ENSURE PUBLIC SAFETY  
5 AND THAT IS CONFINED TO A PREDETERMINED AREA TO ACCOMPLISH  
6 PUBLIC SAFETY OR LAND MANAGEMENT OBJECTIVES. THE TERM EXCLUDES  
7 CONTROLLED AGRICULTURAL BURNS AND CONTROLLED DITCH BURNS.

8 (8.4) "PRINCIPAL" MEANS AN INDIVIDUAL HAVING A POSITION OF  
9 RESPONSIBILITY IN ANY ENTITY ACTING AS A FIRE SUPPRESSION  
10 CONTRACTOR, INCLUDING ANY MANAGER, DIRECTOR, OFFICER, PARTNER,  
11 OWNER, OR SHAREHOLDER OWNING TEN PERCENT OR MORE OF THE STOCKS  
12 OF ANY SUCH ENTITY.

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

15 **24-33.5-1203. Duties of division.** (1) The division shall perform  
16 the following duties:

17 (t) IMPLEMENT A PRESCRIBED BURNING PROGRAM, INCLUDING  
18 CONDUCTING PRESCRIBED BURNING ON ANY AREA [REDACTED] IN THE STATE  
19 PURSUANT TO SECTION 24-33.5-1217. THE DIVISION SHALL CONDUCT SUCH  
20 PRESCRIBED BURNING PROGRAM IN COOPERATION WITH LOCAL, STATE, OR  
21 FEDERAL AGENCIES, PRIVATE PERSONS, OR CONCERNS. \_\_\_\_\_

22 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-1217,  
23 **amend** (2) introductory portion, (2) (e), (3), and (4); and **add** (5), (6), (7),  
24 (8), (9), (10), and (11) as follows:

25 **24-33.5-1217. Prescribed burning program - training and**  
26 **certification of prescribed burn managers - rules - fees.** (2) The  
27 TRAINING AND CERTIFICATION standards adopted under this section shall:



1           (e) Establish training standards for certified burners AND UTILIZE  
2           ALL MEANS AVAILABLE TO MAKE THE CERTIFIED BURNER TRAINING AS  
3           ACCESSIBLE AS POSSIBLE; and

4           (3) ~~(a) Nothing in this section requires~~ EXCEPT AS OTHERWISE  
5           PROVIDED IN THIS SECTION, ON AND AFTER DECEMBER 1, 2013, a user of  
6           prescribed fire ~~to~~ MUST be ATTENDED BY A PERSON certified by the  
7           division PURSUANT TO THIS SECTION AND RULES PROMULGATED THERETO  
8           OR OTHERWISE AUTHORIZED UNDER SECTION 24-33.5-1217.5 (1) (c).

9           (b) (I) NOTHING IN THIS SECTION REQUIRES A PRIVATE  
10           LANDOWNER TO BE CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN  
11           MANAGER OR QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP  
12           STANDARDS AS A PRESCRIBED BURN BOSS TO CONDUCT PRESCRIBED FIRE  
13           ON THEIR OWN PROPERTY.

14           (II) A PRIVATE LANDOWNER OR THE LANDOWNER'S DESIGNEE WHO  
15           IS CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN MANAGER OR  
16           QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP STANDARDS AS  
17           A PRESCRIBED BURN BOSS IS NOT LIABLE FOR ANY CIVIL DAMAGES FOR  
18           ACTS OR OMISSIONS MADE IN GOOD FAITH RESULTING IN DAMAGE OR  
19           INJURY CAUSED BY FIRE OR SMOKE RESULTING FROM PRESCRIBED BURNS  
20           THEY CONDUCT ON THEIR OWN PROPERTY AND IN COMPLIANCE WITH  
21           APPLICABLE STATE LAWS AND LOCAL ORDINANCES, UNLESS SUCH PRIVATE  
22           LANDOWNER'S OR DESIGNEE'S ACTS OR OMISSIONS ARE GROSSLY  
23           NEGLIGENT OR WILLFUL AND WANTON.

24           (III) NOTHING IN THIS SECTION EXEMPTS PRIVATE LANDOWNERS  
25           FROM COMPLYING WITH ANY OTHER APPLICABLE LOCAL, STATE, OR  
26           FEDERAL REQUIREMENTS PERTAINING TO OPEN BURNING.

27           (4) ~~As used in this section, unless the context otherwise requires:~~

1 THE DIRECTOR, BY RULE, MAY ESTABLISH A FEE AT AN AMOUNT NOT TO  
2 EXCEED THE AMOUNT REQUIRED TO RECOVER ALL DIRECT COSTS THAT THE  
3 DIVISION INCURS IN PROVIDING TRAINING TO AND PROCESSING  
4 APPLICATIONS FOR PERSONS SEEKING CERTIFICATION AS CERTIFIED  
5 PRESCRIBED BURN MANAGERS PURSUANT TO THIS SECTION. ANY FEES SO  
6 COLLECTED SHALL BE DEPOSITED INTO THE FIREFIGHTER, FIRST  
7 RESPONDER, HAZARDOUS MATERIALS RESPONDER, AND PRESCRIBED FIRE  
8 TRAINING AND CERTIFICATION FUND CREATED IN SECTION 24-33.5-1207.

9 ~~(a) "Controlled agricultural burn" means a technique used in~~  
10 ~~farming to clear the land of any existing crop residue, kill weeds and~~  
11 ~~weed seeds, or reduce fuel buildup and decrease the likelihood of a future~~  
12 ~~fire.~~

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

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

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

24 (I) MAY ADOPT ANY SUCH RULES AS THE DIRECTOR DEEMS  
25 NECESSARY TO ADMINISTER THE PRESCRIBED BURNING PROGRAM WITHIN  
26 THE DIVISION; AND

27 (II) SHALL ADOPT RULES AND STANDARDS:

1 (A) PERTAINING TO THE TRAINING AND CERTIFICATION OF  
2 PRESCRIBED BURN MANAGERS, INCLUDING TRAINING COMPONENTS;  
3 APPLICATION PROCESSES; QUALIFICATION FOR AND TERMS AND DURATIONS  
4 OF CERTIFICATION; TYPES OF CERTIFICATION, IF APPLICABLE; GROUNDS  
5 AND PROCESSES FOR RENEWAL, SUSPENSION, AND REVOCATION OF  
6 CERTIFICATIONS; AND TRAINING, CERTIFICATION, AND RENEWAL FEES; AND

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

10 (b) THE RULES AND STANDARDS PROMULGATED PURSUANT TO  
11 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF  
12 THIS SUBSECTION (5) CONSTITUTE THE MINIMUM STANDARDS FOR ALL  
13 PRESCRIBED BURNING CONDUCTED IN THE STATE, EXCEPT FOR PRESCRIBED  
14 BURNING CONDUCTED BY AN AGENCY OF THE FEDERAL GOVERNMENT. TO  
15 BE EXEMPT FROM THESE STANDARDS, OTHER USERS OF PRESCRIBED FIRE,  
16 INCLUDING LOCAL GOVERNMENTS AND NONGOVERNMENTAL  
17 ORGANIZATIONS MUST ADOPT OR HAVE ALREADY ADOPTED GUIDELINES OR  
18 STANDARDS THAT ARE IN SUBSTANTIAL COMPLIANCE WITH THE INTENT OF  
19 SECTION 24-33.5-1217.5 FOR PRESCRIBED BURNING UNDER THEIR  
20 CONTROL.

21 (6) (a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (c) OF THIS  
22 SUBSECTION (6), THE DIRECTOR MAY ENTER INTO AN AGREEMENT WITH AN  
23 OWNER OR OTHER PERSON HAVING LEGAL CONTROL OF PROPERTY,   
24 INCLUDING A PUBLIC AGENCY WITH REGULATORY OR NATURAL RESOURCE  
25 MANAGEMENT AUTHORITY OVER ANY SUCH PROPERTY, FOR THE USE OF  
26 PRESCRIBED BURNING == CONSISTENT WITH THIS ARTICLE TO PREVENT  
27 HIGH-INTENSITY WILDLAND FIRES BY REDUCING THE VOLUME AND

1 CONTINUITY OF WILDLAND FUELS OR TO ACHIEVE OTHER GOALS,  
2 INCLUDING FOREST IMPROVEMENT, CONSISTENT WITH THIS ARTICLE.

3 (b) THE DIRECTOR SHALL NOT ENTER INTO AN AGREEMENT FOR  
4 PRESCRIBED BURNING PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION  
5 (6) UNLESS THE DIRECTOR FIRST DETERMINES THAT THE PROPERTY  
6 OWNER OR OTHER PERSON HAVING LEGAL CONTROL OF THE PROPERTY  
7 HAS BOTH EVALUATED ALL ALTERNATIVES TO PRESCRIBED BURNING  
8 AND CONCLUDED THAT PRESCRIBED BURNING IS AN APPROPRIATE  
9 HAZARDOUS FUEL REDUCTION METHOD FOR THE PROPERTY.

10 (c) NOTHING IN THIS SECTION COMPELS ANY PERSON TO ENTER  
11 INTO AN AGREEMENT WITH THE DIRECTOR.

12 (d) (I) WHERE AN AGENCY OF THE FEDERAL GOVERNMENT  
13 ASSUMES PRIMARY RESPONSIBILITY FOR CONDUCTING A PRESCRIBED BURN  
14 IN THE STATE, NEITHER THE AGENCY NOR ANY OTHER AGENCY OF THE  
15 FEDERAL GOVERNMENT IS REQUIRED TO COMPLY WITH THE RULES AND  
16 STANDARDS PROMULGATED PURSUANT TO SUB-SUBPARAGRAPH (B) OF  
17 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS  
18 SECTION.

19 (II) IF THE DIRECTOR HAS ENTERED INTO AN AGREEMENT WITH AN  
20 AGENCY OF THE FEDERAL GOVERNMENT AS OF THE EFFECTIVE DATE OF  
21 THIS SECTION OF THE TYPE DESCRIBED IN PARAGRAPH (a) OF THIS  
22 SUBSECTION (6), NOTHING IN THIS SECTION SHALL BE CONSTRUED TO  
23 REQUIRE A NEW AGREEMENT OR MODIFICATION OF AN EXISTING  
24 AGREEMENT.

25 (7) (a) THE DIVISION SHALL COOPERATE WITH AND PROVIDE  
26 ADVISORY SERVICES TO ANY PERSON DESIRING TO USE PRESCRIBED  
27 BURNING, THE OBJECTIVE OF WHICH IS THE PREVENTION OF

1 HIGH-INTENSITY WILDLAND FIRES, WATERSHED MANAGEMENT,  
2 VEGETATION MANAGEMENT, FOREST IMPROVEMENT, WILDLIFE HABITAT  
3 IMPROVEMENT, OR ANY OTHER OBJECTIVE THAT IS DEEMED TO BE IN THE  
4 PUBLIC INTEREST, OR ANY COMBINATION OF SUCH OBJECTIVES.

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

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

12 (8) THE DIVISION SHALL, SUBJECT TO SUFFICIENT FUNDING,  
13 INSTITUTE A PUBLIC INFORMATION CAMPAIGN TO PROMOTE TO THE  
14 GENERAL PUBLIC THE BENEFITS OF PRESCRIBED BURNING.

15 (9) NOTHING IN THIS ARTICLE GRANTS THE DIVISION AUTHORITY  
16 OVER ANY HAZARDOUS FUEL REDUCTION OTHER THAN PRESCRIBED  
17 BURNING. FOREST HEALTH, FOREST IMPROVEMENT, VEGETATION AND  
18 WATERSHED MANAGEMENT, AND HAZARDOUS FUEL REDUCTION OTHER  
19 THAN PRESCRIBED BURNING REMAIN RESPONSIBILITIES VESTED IN THE  
20 STATE FOREST SERVICE.

21 (10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

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

26 (b) THE PRESCRIBED BURNING STANDARDS ADOPTED BY THE  
27 DIRECTOR PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II)

1 OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION SHALL BE  
2 CONSISTENT WITH EXISTING LAWS AND PROCESSES THAT BAN, REGULATE,  
3 OR HAVE DEVELOPED RECOMMENDATIONS CONCERNING OPEN BURNING,  
4 INCLUDING SECTIONS 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)  
5 (a) (II) AND (6) (a) (III), 25-7-106 (7) AND (8), 25-7-123, 29-20-105.5, AND  
6 30-11-124, C.R.S.

7 (c) NOTHING IN THIS SECTION OR SECTION 24-33.5-1217.5 OR  
8 24-33.5-1217.7 SHALL BE CONSTRUED TO AFFECT THE AUTHORITY OF A  
9 COUNTY GOVERNMENT TO DEVELOP OR ADMINISTER AN OPEN BURNING  
10 PERMIT SYSTEM FOR THE PURPOSE OF SAFELY DISPOSING OF SLASH IN  
11 ACCORDANCE WITH THE PROVISIONS OF SECTION 30-15-401 (1) (n.5),  
12 C.R.S.

13 (11) EXCEPT AS OTHERWISE PROVIDED FOR THE FEES ESTABLISHED  
14 AND COLLECTED PURSUANT TO SUBSECTION (4) OF THIS SECTION, ALL  
15 MONEYS RECEIVED BY THE DIVISION PURSUANT TO THIS SECTION SHALL BE  
16 CREDITED TO THE WILDLAND FIRE COST RECOVERY FUND CREATED IN  
17 SECTION 24-33.5-1220 (4).

18 **SECTION 7.** In Colorado Revised Statutes, **add** \_\_\_\_\_  
19 24-33.5-1217.5 and 24-33.5-1217.7; and **add with amended and**  
20 **relocated provisions** 24-33.5-1217.3 as follows:

21 **24-33.5-1217.3. [Formerly 24-33-203 and 24-33-204] Authority**  
22 **to permit controlled burns during drought conditions - civil -**  
23 **criminal.** The ~~state forester~~ DIVISION may provide written authority to  
24 persons seeking to conduct prescribed or controlled fires, such as  
25 grassland, forest, or habitat management activities, during drought  
26 conditions as specified in section 13-21-105 (2) OR 18-13-109 (2) (b) (III),  
27 C.R.S. In issuing written authority for prescribed or controlled fires, the

1 ~~state forester~~ DIVISION shall ~~be in conformity with~~ CONFORM TO and shall  
2 not supersede any state or local bans on fires.

3 **24-33.5-1217.5. Minimum prescribed burning standards.**

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

6 (a) ENSURE THAT PRESCRIBED BURNING IS THE CONTROLLED  
7 APPLICATION OF FIRE TO VEGETATIVE FUELS UNDER SPECIFIED  
8 ENVIRONMENTAL CONDITIONS IN ACCORDANCE WITH A WRITTEN  
9 PRESCRIPTION PLAN, WHICH PLAN:

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

11 (II) IS DESIGNED TO ACCOMPLISH PLANNED LAND MANAGEMENT  
12 OBJECTIVES, AS THOSE OBJECTIVES ARE DETERMINED BY THE PROPERTY  
13 OWNER OR NATURAL RESOURCE MANAGEMENT AUTHORITY; AND

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

16 (b) INCLUDE INFORMATION ON PLANNING, PREPARING, AND  
17 IMPLEMENTING SAFE, EFFECTIVE PRESCRIBED BURNING, WHICH  
18 INFORMATION:

19 (I) IS BASED ON THE "INTERAGENCY PRESCRIBED FIRE PLANNING  
20 AND IMPLEMENTATION PROCEDURES GUIDE", AS AMENDED, PUBLISHED BY  
21 THE NATIONAL WILDFIRE COORDINATING GROUP, OR BY ANY SUCCESSOR  
22 GROUP; AND

23 (II) CONTAINS SPECIFIC CRITERIA WITH RESPECT TO MASTICATED  
24 FUELS;

25 (c) REQUIRE AT LEAST ONE PERSON, WHO MUST BE EITHER  
26 CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN MANAGER OR  
27 QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP STANDARDS AS

1 A PRESCRIBED BURN BOSS AT THE LEVEL COMMENSURATE WITH THE  
2 COMPLEXITY OF THE BURN, TO BE PRESENT ON SITE:

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

4 (II) (A) UNTIL THE FIRE IS ADEQUATELY CONFINED TO  
5 REASONABLY PREVENT ESCAPE OF THE FIRE FROM THE AREA INTENDED TO  
6 BE BURNED; OR

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

9 (d) ESTABLISH APPROPRIATE GUIDELINES SUFFICIENT TO:

10 (I) CONDUCT THE BURN IN ACCORDANCE WITH THE PRESCRIPTION  
11 PLAN; AND

12 (II) PROVIDE ADEQUATE PROTECTION FOR THE SAFETY OF PERSONS  
13 AND OF ADJACENT PROPERTY;

14 (e) EVALUATE ALTERNATIVES TO PRESCRIBED BURNING, SUCH AS  
15 MECHANICAL TREATMENT, AND GUIDE THE USER THROUGH THE SAFE AND  
16 PRUDENT APPLICATION OF PRESCRIBED BURNING, WHEN IT IS DETERMINED  
17 TO BE AN APPROPRIATE METHOD; AND

18 (f) SET FORTH REQUIREMENTS FOR RECORDKEEPING; PUBLIC  
19 INFORMATION CAMPAIGNS; AND TIMELY NOTICE OF PRESCRIBED BURNING  
20 TO ADJACENT LANDOWNERS, LOCAL AUTHORITIES, AND, TO THE EXTENT  
21 PRACTICABLE, POTENTIALLY AFFECTED NEIGHBORS.

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

27 (3) THE RULES AND STANDARDS ADOPTED BY THE DIRECTOR MUST



1 BE PROMULGATED IN CONSULTATION WITH THE COLORADO STATE FOREST  
2 SERVICE AS DESCRIBED IN PART 3 OF ARTICLE 31 OF TITLE 23, C.R.S., THE  
3 COLORADO PRESCRIBED FIRE COUNCIL, OR AN ANALOGOUS SUCCESSOR  
4 ORGANIZATION, AND OTHER SUBJECT MATTER EXPERTS AS THE DIRECTOR  
5 DEEMS APPROPRIATE. IN PROMULGATING SUCH RULES AND STANDARDS,  
6 THE DIRECTOR SHALL CONSIDER THE CURRENT STATE OF RESEARCH AND  
7 BEST MANAGEMENT PRACTICES FOR PRESCRIBED BURNING.

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9 **24-33.5-1217.7. Escaped prescribed fires.** (1) IF A PRESCRIBED  
10 FIRE EXCEEDS THE CONTROL CAPABILITY OF ON-SITE RESOURCES, THE FIRE  
11 IS DEEMED TO BE ESCAPED AND CONTINGENCY ACTIONS SHALL BE TAKEN  
12 IMMEDIATELY TO BRING THE ESCAPE UNDER CONTROL.

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

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

23 (4) IN ORDER TO PREVENT HIGH-INTENSITY OR CATASTROPHIC  
24 WILDLAND FIRES, LOCAL, STATE, OR FEDERAL FIREFIGHTERS MAY ENTER  
25 LANDS AND CONSTRUCT FIRE LINES OR FIRE BREAKS TO PREVENT FURTHER  
26 SPREAD OF WILDFIRES, WITHOUT LIABILITY FOR TRESPASS.

27 **SECTION 8.** In Colorado Revised Statutes, 13-21-105, **amend**

1 (2) (b) (II) as follows:

2 **13-21-105. Damages from fire set in woods or prairie - treble**  
3 **damages during drought conditions.** (2) (b) (II) ~~The provisions of~~  
4 ~~Paragraph (a) of this subsection (2) shall~~ DOES not apply to any other  
5 person seeking to conduct other prescribed or controlled fires such as  
6 grassland, forest, or habitat management activities, if such person has first  
7 obtained written authority from the ~~state forester~~ DIRECTOR OF THE  
8 DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF  
9 PUBLIC SAFETY.

10 **SECTION 9.** In Colorado Revised Statutes, 18-13-109, **amend**  
11 (2) (b) introductory portion and (2) (b) (III) as follows:

12 **18-13-109. Firing woods or prairie.** (2) (b) The following  
13 activities ~~shall~~ DO not ~~be~~ CONSTITUTE offenses under this subsection (2):

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

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

18 **23-31-313. Healthy forests - vibrant communities - funds**  
19 **created - repeal.** (6) **Community watershed restoration.** (a) In order  
20 to support communities and land managers in moving from risk reduction  
21 to long-term ecological restoration so that the underlying condition of  
22 Colorado's forests supports a variety of values, particularly public water  
23 supply and high-quality wildlife habitat, the forest service shall:

24 (II) Facilitate and work collaboratively with THE DIVISION OF FIRE  
25 PREVENTION AND CONTROL, landowners, local governments, including  
26 conservation districts created pursuant to article 70 of title 35, C.R.S., and  
27 county noxious weed program administrators and other appropriate

1 parties, including any electric, gas, and water utilities in the affected area,  
2 to design ~~and safely implement~~ prescribed fire projects and to encourage  
3 increased responsible use of prescribed fire as a tool for restoring healthy  
4 forest conditions consistent with programs established pursuant to section  
5 25-7-106 (7) and (8), C.R.S., AND SECTION 24-33.5-1217, C.R.S. The  
6 forest service shall emphasize providing training and technical assistance  
7 for landowners, local communities, and state agencies.

8 **SECTION 11.** In Colorado Revised Statutes, 24-33.5-1204,  
9 **amend** (3) as follows:

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

20 **SECTION 12.** In Colorado Revised Statutes, 24-33.5-1205,  
21 **amend** (1) (g) as follows:

22 **24-33.5-1205. Duties of the director and the advisory board.**  
23 (1) The director has the following duties relating to the voluntary  
24 firefighter, first responder, and hazardous materials responder  
25 certification programs and the fire service education and training  
26 program:

27 (g) To establish fees for the actual direct and indirect costs of the

1 administration of the firefighter, first responder, and hazardous materials  
2 responder certification programs, which fees shall be assessed against any  
3 person participating in such programs. All fees collected shall be credited  
4 to the firefighter, first responder, ~~and~~ hazardous materials responder, AND  
5 PRESCRIBED FIRE TRAINING AND certification fund created in section  
6 24-33.5-1207.

7 **SECTION 13.** In Colorado Revised Statutes, 24-33.5-1207,  
8 **amend** (1) as follows:

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

21 **SECTION 14.** In Colorado Revised Statutes, 24-33.5-1211,  
22 **amend** (4) as follows:

23 **24-33.5-1211. Inspector certification.** (4) The director of the  
24 division shall establish a fee to cover the actual direct and indirect costs  
25 of processing applications and issuing and renewing certifications  
26 pursuant to this section. Certification fees collected by the division shall  
27 be credited to the firefighter, first responder, ~~and~~ hazardous materials

1 responder, AND PRESCRIBED FIRE TRAINING AND certification fund created  
2 in section 24-33.5-1207.

3 **SECTION 15.** In Colorado Revised Statutes, 30-11-124, **amend**  
4 (1) as follows:

5 **30-11-124. Fire planning authority.** (1) The board of county  
6 commissioners of each county in the state, subject to the requirements of  
7 section 25-7-123, C.R.S., may prepare, adopt, and implement a county  
8 fire management plan that details individual county policies on fire  
9 management for prescribed burns, fuels management, or natural ignition  
10 burns on lands owned by the state or county. Such plans shall be  
11 developed in coordination with the county sheriff, the ~~Colorado state~~  
12 ~~forest service~~ DIVISION OF FIRE PREVENTION AND CONTROL IN THE  
13 DEPARTMENT OF PUBLIC SAFETY, and the appropriate state and local  
14 governmental entities. All interested parties shall have the opportunity to  
15 comment on the plan prior to its adoption and implementation.

16 **SECTION 16. Repeal of provisions being relocated in this act.**  
17 In Colorado Revised Statutes, **repeal** 24-33-203 and 24-33-204.

18 **SECTION 17. Appropriation.** (1) The general assembly  
19 anticipates that, for the fiscal year beginning July 1, 2013, the department  
20 of public safety, executive director's office, will receive the sum of  
21 \$4,635 in federal funds for the purchase of legal services related to the  
22 implementation of this act. Although these funds are not appropriated in  
23 this act, they are noted for the purpose of indicating the assumptions used  
24 relative to these funds.

25 (2) In addition to any other appropriation, there is hereby  
26 appropriated to the department of law, for the fiscal year beginning July  
27 1, 2013, the sum of \$4,635, or so much thereof as may be necessary, for

1 the provision of legal services for the department of public safety related  
2 to the implementation of this act. Said sum is from reappropriated funds  
3 received from the department of public safety out of the appropriation  
4 made in subsection (1) of this section.

5 **SECTION 18. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, and safety.