First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO
UNOFFICIAL PREAMENDED VERSION WITH L.001

LLS NO. 13-0115.01 Kate Meyer x4348 **SENATE BILL 13-083**

SENATE SPONSORSHIP

Roberts and Nicholson,

HOUSE SPONSORSHIP

Gerou and Levy,

Senate Committees
Judiciary

House Committees

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.

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

"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;

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

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

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

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

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

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

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

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

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

(3) The general assembly therefore:

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

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

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

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

24-33.5-1201. Division of fire prevention and control - creation - public school construction and inspection section - health facility construction and inspection section - legislative declaration. (1) (a) There is hereby created within the department the division of fire prevention and control. ~~referred to in this part 12 as the "division".~~ The head of the division is the director of the division of fire prevention and control. ~~referred to in this part 12 as the "director".~~ The executive director shall appoint the director pursuant to section 13 of article XII of the state

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

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

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

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

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

(3.3) ~~"Cigarette" means any roll for smoking, whether made wholly or partly of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.~~ "CONTROLLED AGRICULTURAL BURN" MEANS A TECHNIQUE USED IN FARMING OR LIVESTOCK PRODUCTION ON A PARCEL OF LAND THAT MEETS THE DEFINITION OF AGRICULTURAL LAND, AS THAT TERM IS DEFINED IN SECTION 39-1-102 (1.6) (a), C.R.S., TO CLEAR THE LAND OF ANY EXISTING

NATIVE VEGETATION OR CROP RESIDUE OR KILL WEEDS AND WEED SEEDS.

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

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

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

(3.7) ~~"Fire department" means the duly authorized fire protection~~

1 ~~organization of a town, city, county, or city and county, a fire protection~~
2 ~~district, or a metropolitan district or county improvement district that~~
3 ~~provides fire protection~~ "DIVISION" MEANS THE DIVISION OF FIRE
4 PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY
5 CREATED IN THIS ARTICLE.
6 (3.8) "EMERGENCY FIRE FUND" MEANS THE EMERGENCY FIRE FUND
7 CREATED IN SECTION 24-33.5-1220 THAT WAS FIRST ESTABLISHED IN 1967
8 WITH VOLUNTARY CONTRIBUTIONS FROM COUNTIES AND THE DENVER
9 WATER BOARD; ADMINISTERED BY A NINE-PERSON COMMITTEE COMPOSED
10 OF COUNTY COMMISSIONERS, SHERIFFS, FIRE CHIEFS, AND THE DIRECTOR;
11 AND USED FOR THE PURPOSE OF PAYING COSTS INCURRED AS A RESULT OF
12 CONTROLLING A WILDFIRE BY ANY OF THE PARTIES CONTRIBUTING MONEYS
13 TO THE FUND, IN ACCORDANCE WITH THE INTERGOVERNMENTAL
14 AGREEMENT FOR PARTICIPATION IN THE EMERGENCY FIRE FUND.
15 (3.9) "FIRE DEPARTMENT" MEANS THE DULY AUTHORIZED FIRE
16 PROTECTION ORGANIZATION OF A TOWN, CITY, COUNTY, OR CITY AND
17 COUNTY, A FIRE PROTECTION DISTRICT, OR A METROPOLITAN DISTRICT OR
18 COUNTY IMPROVEMENT DISTRICT THAT PROVIDES FIRE PROTECTION.
19 (8) ~~"Principal" means an individual having a position of~~
20 ~~responsibility in any entity acting as a fire suppression contractor,~~
21 ~~including but not limited to any manager, director, officer, partner, owner,~~
22 ~~or shareholder owning ten percent or more of the stocks of any such entity~~
23 "MASTICATED FUELS" MEANS FUELS, SUCH AS BRUSH, SMALL-DIAMETER
24 TREES, AND SLASH, THAT HAVE BEEN GROUND OR CHEWED INTO SMALL
25 PIECES OF WOODY MATERIAL THROUGH A MECHANICAL WILDLAND FUELS
26 TREATMENT PROCESS, AND GENERALLY LEFT TO CARPET THE GROUND.
27

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

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

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

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

(t) IMPLEMENT A PRESCRIBED BURNING PROGRAM, INCLUDING CONDUCTING PRESCRIBED BURNING ON ANY AREA OF WILDLAND IN THE STATE PURSUANT TO SECTION 24-33.5-1217. THE DIVISION SHALL CONDUCT SUCH PRESCRIBED BURNING PROGRAM IN COOPERATION WITH LOCAL, STATE, OR FEDERAL AGENCIES, PRIVATE PERSONS, OR CONCERNS.

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

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

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

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

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

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

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

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

THE DIRECTOR, BY RULE, SHALL ESTABLISH A FEE AT AN AMOUNT SUFFICIENT TO RECOVER ALL DIRECT COSTS THAT THE DIVISION INCURS IN PROVIDING TRAINING TO AND PROCESSING APPLICATIONS FOR PERSONS SEEKING CERTIFICATION AS CERTIFIED PRESCRIBED BURN MANAGERS PURSUANT TO THIS SECTION. THE FEES SO COLLECTED SHALL BE DEPOSITED INTO THE FIREFIGHTER, FIRST RESPONDER, HAZARDOUS MATERIALS RESPONDER, AND PRESCRIBED FIRE TRAINING AND CERTIFICATION FUND CREATED IN SECTION 24-33.5-1207.

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

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

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

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

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

(II) SHALL ADOPT RULES AND STANDARDS:

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

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

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

(6) (a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (6), THE DIRECTOR MAY ENTER INTO AN AGREEMENT WITH AN OWNER OR OTHER PERSON HAVING LEGAL CONTROL OF PROPERTY LOCATED WITHIN ANY WILDLAND, INCLUDING A PUBLIC AGENCY WITH REGULATORY OR NATURAL RESOURCE MANAGEMENT AUTHORITY OVER ANY SUCH PROPERTY, FOR THE USE OF PRESCRIBED BURNING _____ CONSISTENT WITH THIS ARTICLE TO PREVENT HIGH-INTENSITY WILDLAND

1 FIRES BY REDUCING THE VOLUME AND CONTINUITY OF WILDLAND FUELS
2 OR TO ACHIEVE OTHER GOALS, INCLUDING FOREST IMPROVEMENT,
3 CONSISTENT WITH THIS ARTICLE.
4 (b) THE DIRECTOR SHALL NOT ENTER INTO AN AGREEMENT FOR
5 PRESCRIBED BURNING PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
6 (6) UNLESS THE DIRECTOR FIRST VERIFIES THAT THE PROPERTY OWNER OR
7 OTHER PERSON HAVING LEGAL CONTROL OF THE PROPERTY WITHIN THE
8 WILDLAND HAS BOTH EVALUATED ALL ALTERNATIVES TO PRESCRIBED
9 BURNING AND DETERMINED THAT PRESCRIBED BURNING IS THE MOST
10 APPROPRIATE HAZARDOUS FUEL REDUCTION METHOD FOR THE PROPERTY.
11 (c) NOTHING IN THIS SECTION COMPELS ANY PERSON TO ENTER
12 INTO AN AGREEMENT WITH THE DIRECTOR.
13 (d) (I) WHERE AN AGENCY OF THE FEDERAL GOVERNMENT
14 ASSUMES PRIMARY RESPONSIBILITY FOR CONDUCTING A PRESCRIBED BURN
15 IN THE STATE, NEITHER THE AGENCY NOR ANY OTHER AGENCY OF THE
16 FEDERAL GOVERNMENT IS REQUIRED TO COMPLY WITH THE RULES AND
17 STANDARDS PROMULGATED PURSUANT TO SUB-SUBPARAGRAPH (B) OF
18 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS
19 SECTION.
20 (II) IF THE DIRECTOR HAS ENTERED INTO AN AGREEMENT WITH AN
21 AGENCY OF THE FEDERAL GOVERNMENT AS OF THE EFFECTIVE DATE OF
22 THIS SECTION OF THE TYPE DESCRIBED IN PARAGRAPH (a) OF THIS
23 SUBSECTION (6), NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
24 REQUIRE A NEW AGREEMENT OR MODIFICATION OF AN EXISTING
25 AGREEMENT.
26 (7) (a) THE DIVISION SHALL COOPERATE WITH AND PROVIDE
27 ADVISORY SERVICES TO ANY PERSON DESIRING TO USE PRESCRIBED

1 BURNING, THE OBJECTIVE OF WHICH IS THE PREVENTION OF
2 HIGH-INTENSITY WILDLAND FIRES, WATERSHED MANAGEMENT,
3 VEGETATION MANAGEMENT, FOREST IMPROVEMENT, WILDLIFE HABITAT
4 IMPROVEMENT, OR ANY OTHER OBJECTIVE THAT IS DEEMED TO BE IN THE
5 PUBLIC INTEREST, OR ANY COMBINATION OF SUCH OBJECTIVES.
6 (b) THE DIVISION SHALL PROVIDE INFORMATION AND TECHNICAL
7 ASSISTANCE TO UNITS OF LOCAL GOVERNMENT, UPON REQUEST FROM THE
8 LOCAL GOVERNMENT, CONCERNING PRESCRIBED BURNING.
9 (c) THE DIVISION MAY PROVIDE STANDBY FIRE PROTECTION TO ANY
10 PERSON USING PRESCRIBED BURNING IN A MANNER DEEMED TO BE IN THE
11 PUBLIC INTEREST, TO SUCH EXTENT AS PERSONNEL, FIRE CREWS, AND
12 FIREFIGHTING EQUIPMENT ARE REQUESTED AND AVAILABLE.
13 (8) THE DIVISION SHALL, SUBJECT TO SUFFICIENT FUNDING,
14 INSTITUTE A PUBLIC INFORMATION CAMPAIGN TO PROMOTE TO THE
15 GENERAL PUBLIC THE BENEFITS OF PRESCRIBED BURNING.
16 (9) NOTHING IN THIS ARTICLE GRANTS THE DIVISION AUTHORITY
17 OVER ANY HAZARDOUS FUEL REDUCTION OTHER THAN PRESCRIBED
18 BURNING. FOREST HEALTH, FOREST IMPROVEMENT, VEGETATION AND
19 WATERSHED MANAGEMENT, AND HAZARDOUS FUEL REDUCTION OTHER
20 THAN PRESCRIBED BURNING REMAIN RESPONSIBILITIES VESTED IN THE
21 STATE FOREST SERVICE.
22 (10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:
23 (a) IN PERFORMING THE DUTIES ASSIGNED TO HIM OR HER UNDER
24 SUBSECTIONS (5) AND (6) OF THIS SECTION, THE DIRECTOR SHALL CONSULT
25 WITH THE COLORADO STATE FOREST SERVICE AS DESCRIBED IN PART 3 OF
26 ARTICLE 31 OF TITLE 23, C.R.S.
27 (b) THE PRESCRIBED BURNING STANDARDS ADOPTED BY THE

1 DIRECTOR PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II)
2 OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION SHALL BE
3 CONSISTENT WITH EXISTING LAWS AND PROCESSES THAT BAN, REGULATE,
4 OR HAVE DEVELOPED RECOMMENDATIONS CONCERNING OPEN BURNING,
5 INCLUDING SECTIONS 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)
6 (a) (II) AND (6) (a) (III), 25-7-106 (7) AND (8), 25-7-123, 29-20-105.5, AND
7 30-11-124, C.R.S.
8 (c) NOTHING IN THIS SECTION OR SECTION 24-33.5-1217.5 OR
9 24-33.5-1217.7 SHALL BE CONSTRUED TO AFFECT THE AUTHORITY OF A
10 COUNTY GOVERNMENT TO DEVELOP OR ADMINISTER AN OPEN BURNING
11 PERMIT SYSTEM FOR THE PURPOSE OF SAFELY DISPOSING OF SLASH IN
12 ACCORDANCE WITH THE PROVISIONS OF SECTION 30-15-401 (1) (n.5),
13 C.R.S.
14 (11) EXCEPT AS OTHERWISE PROVIDED FOR THE FEES ESTABLISHED
15 AND COLLECTED PURSUANT TO SUBSECTION (4) OF THIS SECTION, ALL
16 MONEYS RECEIVED BY THE DIVISION PURSUANT TO THIS SECTION SHALL BE
17 CREDITED TO THE WILDFIRE PREPAREDNESS FUND CREATED IN SECTION
18 24-33.5-1226 (4) (a).
19 **SECTION 7.** In Colorado Revised Statutes, **add** 24-33.5-1217.5
20 and 24-33.5-1217.7 as follows:
21 **24-33.5-1217.5. Minimum prescribed burning standards.**
22 (1) THE PRESCRIBED BURNING STANDARDS ADOPTED BY THE DIRECTOR
23 PURSUANT TO SECTION 24-33.5-1217 (5) (a) (II) (B) MUST, AT A MINIMUM:
24 (a) ENSURE THAT PRESCRIBED BURNING IS THE CONTROLLED
25 APPLICATION OF FIRE TO VEGETATIVE FUELS UNDER SPECIFIED
26 ENVIRONMENTAL CONDITIONS IN ACCORDANCE WITH A WRITTEN
27 PRESCRIPTION PLAN, WHICH PLAN:

1 (I) IS DESIGNED TO CONFINE THE FIRE TO A PREDETERMINED AREA;
2 (II) IS DESIGNED TO ACCOMPLISH PLANNED LAND MANAGEMENT
3 OBJECTIVES, AS THOSE OBJECTIVES ARE DETERMINED BY THE PROPERTY
4 OWNER OR NATURAL RESOURCE MANAGEMENT AUTHORITY; AND
5 (III) CONFORMS TO THIS ARTICLE AND THE RULES AND STANDARDS
6 ADOPTED IN ACCORDANCE WITH THIS ARTICLE;
7 (b) INCLUDE INFORMATION ON PLANNING, PREPARING, AND
8 IMPLEMENTING SAFE, EFFECTIVE PRESCRIBED BURNING, WHICH
9 INFORMATION:
10 (I) IS BASED ON THE "INTERAGENCY PRESCRIBED FIRE PLANNING
11 AND IMPLEMENTATION PROCEDURES GUIDE", AS AMENDED, PUBLISHED BY
12 THE NATIONAL WILDFIRE COORDINATING GROUP, OR BY ANY SUCCESSOR
13 GROUP; AND
14 (II) CONTAINS SPECIFIC CRITERIA WITH RESPECT TO MASTICATED
15 FUELS;
16 (c) REQUIRE AT LEAST ONE PERSON, WHO MUST BE EITHER
17 CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN MANAGER OR
18 QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP STANDARDS AS
19 A PRESCRIBED BURN BOSS AT THE LEVEL COMMENSURATE WITH THE
20 COMPLEXITY OF THE BURN, TO BE PRESENT ON SITE:
21 (I) DURING THE CONDUCT OF THE PRESCRIBED BURN; AND
22 (II) (A) UNTIL THE FIRE IS ADEQUATELY CONFINED TO
23 REASONABLY PREVENT ESCAPE OF THE FIRE FROM THE AREA INTENDED TO
24 BE BURNED; OR
25 (B) UNTIL THE PRESCRIBED BURNING IS COMPLETED AND ALL FIRE
26 IS DECLARED TO BE OUT;
27 (d) ESTABLISH APPROPRIATE GUIDELINES FOR SIZE OF BURNING

1 CREWS SUFFICIENT TO:

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

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

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

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

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

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

26

27 **24-33.5-1217.7. Escaped prescribed fires.** (1) IF A PRESCRIBED

FIRE EXCEEDS THE CONTROL CAPABILITY OF ON-SITE RESOURCES, THE FIRE IS DEEMED TO BE ESCAPED AND CONTINGENCY ACTIONS SHALL BE TAKEN IMMEDIATELY TO BRING THE ESCAPE UNDER CONTROL.

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

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

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

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

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

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

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

23-31-313. Healthy forests - vibrant communities - funds created - repeal. (6) **Community watershed restoration.** (a) In order

1 to support communities and land managers in moving from risk reduction
2 to long-term ecological restoration so that the underlying condition of
3 Colorado's forests supports a variety of values, particularly public water
4 supply and high-quality wildlife habitat, the forest service shall:
5 (II) Facilitate and work collaboratively with THE DIVISION OF FIRE
6 PREVENTION AND CONTROL, landowners, local governments, including
7 conservation districts created pursuant to article 70 of title 35, C.R.S., and
8 county noxious weed program administrators and other appropriate
9 parties, including any electric, gas, and water utilities in the affected area,
10 to design ~~and safely implement~~ prescribed fire projects and to encourage
11 increased responsible use of prescribed fire as a tool for restoring healthy
12 forest conditions consistent with programs established pursuant to section
13 25-7-106 (7) and (8), C.R.S., AND SECTION 24-33.5-1217, C.R.S. The
14 forest service shall emphasize providing training and technical assistance
15 for landowners, local communities, and state agencies.
16 **SECTION 10.** In Colorado Revised Statutes, 24-33.5-1204,
17 **amend** (3) as follows:
18 **24-33.5-1204. Voluntary education and training program -**
19 **voluntary certification of firefighters, first responders, and**
20 **hazardous materials responders - advisory board.** (3) The advisory
21 board shall meet as determined necessary by the chairperson or the
22 director. The members of the advisory board shall receive no
23 compensation but shall be reimbursed for necessary travel and other
24 expenses actually incurred in the performance of their official duties. The
25 expenses shall be paid from the firefighter, first responder, ~~and~~ hazardous
26 materials responder, AND PRESCRIBED FIRE TRAINING AND certification
27 fund created in section 24-33.5-1207.

1 **SECTION 11.** In Colorado Revised Statutes, 24-33.5-1205,
2 **amend** (1) (g) as follows:
3 **24-33.5-1205. Duties of the director and the advisory board.**
4 (1) The director has the following duties relating to the voluntary
5 firefighter, first responder, and hazardous materials responder
6 certification programs and the fire service education and training
7 program:
8 (g) To establish fees for the actual direct and indirect costs of the
9 administration of the firefighter, first responder, and hazardous materials
10 responder certification programs, which fees shall be assessed against any
11 person participating in such programs. All fees collected shall be credited
12 to the firefighter, first responder, ~~and~~ hazardous materials responder, AND
13 PRESCRIBED FIRE TRAINING AND certification fund created in section
14 24-33.5-1207.
15 **SECTION 12.** In Colorado Revised Statutes, 24-33.5-1207,
16 **amend** (1) as follows:
17 **24-33.5-1207. Firefighter, first responder, hazardous materials**
18 **responder, and prescribed fire training and certification fund -**
19 **created.** (1) All moneys received by the director pursuant to the
20 coordination and administration of the firefighter, first responder, ~~and~~
21 hazardous materials responder, AND PRESCRIBED FIRE TRAINING AND
22 certification programs and all interest earned on the moneys shall be
23 deposited in the state treasury in the firefighter, first responder, ~~and~~
24 hazardous materials responder, AND PRESCRIBED FIRE TRAINING AND
25 certification fund, which fund is hereby created, and the moneys shall be
26 used, subject to annual appropriations by the general assembly, for the
27 purposes set forth in this part 12 and shall not be deposited in or

1 transferred to the general fund of the state of Colorado or any other fund.

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

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

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