First Regular Session Sixty-ninth General Assembly STATE OF COLORADO

BILL A

LLS NO. 13-0115.01 Kate Meyer x4348

SENATE BILL

SENATE SPONSORSHIP

Nicholson and Roberts,

HOUSE SPONSORSHIP

Gerou and Levy,

Senate Committees

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.
- 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:

1

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

-2- DRAFT

(b) Colorado's ever-increasing population situates urban development directly adjacent 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

-3- DRAFT

- 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

-4- DRAFT

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 fire fund "CROSS-CONNECTION CONTROL DEVICE" MEANS AN 26

INSTALLATION, DEVICE, OR ASSEMBLY LOCATED BETWEEN THE WATER

27

-5- DRAFT

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

- (3.7) "Fire department" means the duly authorized fire protection organization of a town, city, county, or city and county, a fire protection district, or a metropolitan district or county improvement district that provides fire protection. "DIVISION" MEANS THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY CREATED IN THIS ARTICLE.
- (3.8) "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 THE PARTIES CONTRIBUTING MONEYS TO THE FUND, IN ACCORDANCE WITH THE INTERGOVERNMENTAL AGREEMENT FOR PARTICIPATION IN THE EMERGENCY FIRE FUND.
- (3.9) "FIRE DEPARTMENT" MEANS THE DULY AUTHORIZED FIRE PROTECTION ORGANIZATION OF A TOWN, CITY, COUNTY, OR CITY AND COUNTY, A FIRE PROTECTION DISTRICT, OR A METROPOLITAN DISTRICT OR COUNTY IMPROVEMENT DISTRICT THAT PROVIDES FIRE PROTECTION.
- (8) "Principal" means an individual having a position of responsibility in any entity acting as a fire suppression contractor,

-6- DRAFT

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

-7- DRAFT

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), and (8)
7	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

-8- DRAFT

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

-9- DRAFT

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

- (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 OR OTHER HAZARDOUS FUEL REDUCTION CONSISTENT WITH THIS ARTICLE TO PREVENT HIGH-INTENSITY WILDLAND FIRES BY REDUCING THE VOLUME AND CONTINUITY OF WILDLAND FUELS OR TO ACHIEVE OTHER GOALS, INCLUDING FOREST IMPROVEMENT, CONSISTENT WITH THIS ARTICLE.
 - (b) THE DIRECTOR SHALL NOT ENTER INTO AN AGREEMENT FOR PRESCRIBED BURNING PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) UNLESS THE DIRECTOR FIRST DETERMINES THAT THE PUBLIC BENEFITS REASONABLY ESTIMATED TO BE DERIVED FROM THE PRESCRIBED BURNING PURSUANT TO THE AGREEMENT WILL BE EQUAL TO OR GREATER THAN THE REASONABLY FORESEEABLE DAMAGE THAT COULD RESULT FROM THE PRESCRIBED BURNING.
 - (c) (I) Where an agency of the federal government assumes primary responsibility for conducting a prescribed burn in the state, neither the agency nor any other agency of the federal government is required to comply with the rules and standards promulgated pursuant to sub-subparagraph (B) of subparagraph (II) of paragraph (a) of subsection (5) of this section.
 - (II) IF THE DIRECTOR HAS ENTERED INTO AN AGREEMENT WITH AN

-10- DRAFT

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

FIREFIGHTING EQUIPMENT ARE REQUESTED AND AVAILABLE.

(8) THE DIVISION SHALL, SUBJECT TO SUFFICIENT FUNDING,
INSTITUTE A PUBLIC INFORMATION CAMPAIGN TO PROMOTE TO THE

GENERAL PUBLIC THE BENEFITS OF PRESCRIBED BURNING.

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

-11- DRAFT

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	${\tt SUBSECTIONS(5)AND(6)OFTHISSECTION, THEDIRECTORSHALLCONSULT}$
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 sections 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 FILES LINDER SPECIFIED

-12- DRAFT

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;

-13- DRAFT

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

-14- DRAFT

I	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	COOPERATIVEMANAGEMENTOFJOINTPRESCRIBEDBURNINGOPERATIONS.
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

-15- DRAFT

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

-16- DRAFT

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

-17- DRAFT

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

-18- DRAFT

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.

-19- DRAFT

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 shal
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.

-20- DRAFT