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INTERIM COMMITTEE BILL

Lower North Fork Wildfire Commission

SHORT TITLE: "Prescribed Burn Prog Div Fire Prevention & Control"

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

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

"Colorado Prescribed Burning Act", which:

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

The bill makes conforming amendments as follows:

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) The general assembly further finds and declares that:

26 (a) As Colorado's population continues to grow, liability concerns
27 and smoke nuisance complaints cause prescribed burn practitioners to

1 limit their prescribed burn activities, thus reducing the aforementioned
2 benefits to the state and its citizens; and

3 (b) Public misunderstanding of the benefits that prescribed
4 burning provides to the ecological and economic welfare of the state
5 exerts unusual pressures that discourage use of this valuable forest
6 resource management tool.

7 (3) The general assembly therefore:

8 (a) Acknowledges the natural role of fire in forest ecosystems, and
9 finds and declares it is in the public interest to sometimes use fire under
10 controlled conditions to prevent wildfires by maintaining healthy forests
11 and eliminating sources of fuel;

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

15 (c) Declares that the purpose of this act is to authorize and
16 promote the continued use of prescribed burning for community
17 protection, forest health, and environmental and wildlife management
18 purposes, while ensuring appropriate precautionary measures that ensure
19 the fires are confined to a predetermined area.

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

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

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

1 control. ~~referred to in this part 12 as the "director"~~ The executive director
2 shall appoint the director pursuant to section 13 of article XII of the state
3 constitution. ~~The executive director shall appoint~~ Only those persons
4 meeting the qualifications described in paragraph (b) of this subsection
5 (1) ARE ELIGIBLE FOR APPOINTMENT.

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

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

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

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

1 ~~fire fund~~ "CROSS-CONNECTION CONTROL DEVICE" MEANS AN
2 INSTALLATION, DEVICE, OR ASSEMBLY LOCATED BETWEEN THE WATER
3 SUPPLY AND FIRE SUPPRESSION PIPING TO PREVENT THE UNDESIRABLE
4 REVERSAL IN THE FLOW OF WATER FROM A REAL OR POTENTIAL SOURCE OF
5 CONTAMINATION BACK TO THE POTABLE WATER SUPPLY. A
6 CROSS-CONNECTION CONTROL DEVICE IS ALSO REFERRED TO AS A BACK
7 FLOW PREVENTER.

8 (3.6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

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

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

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

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

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

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

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

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

26 (t) IMPLEMENT A PRESCRIBED BURNING PROGRAM, INCLUDING
27 CONDUCTING FUEL REDUCTION INITIATIVES, SUCH AS PRESCRIBED

1 BURNING OR MECHANICAL OR CHEMICAL TREATMENT, ON ANY AREA OF
2 WILDLAND WITHIN THE STATE THAT THE DIRECTOR REASONABLY
3 DETERMINES IS SUSCEPTIBLE TO WILDFIRE. SUCH INITIATIVES SHALL BE
4 CONDUCTED IN COOPERATION AND AGREEMENT WITH LOCAL, STATE, OR
5 FEDERAL AGENCIES, OR PRIVATE PERSONS OR CONCERNS, PURSUANT TO
6 SECTIONS 24-33.5-1217 AND 24-33.5-1217.7.

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

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

13 (3) ~~Nothing in this section requires~~ ON AND AFTER SEPTEMBER 1,
14 2013, a ~~user~~ of prescribed fire ~~to~~ MUST be ATTENDED BY A PERSON
15 certified by the division PURSUANT TO THIS SECTION AND RULES
16 PROMULGATED THERETO OR OTHERWISE AUTHORIZED UNDER SECTION
17 24-33.5-1217.5 (1) (c).

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

27 (a) ~~"Controlled agricultural burn" means a technique used in~~

1 ~~farming to clear the land of any existing crop residue, kill weeds and~~
2 ~~weed seeds, or reduce fuel buildup and decrease the likelihood of a future~~
3 ~~fire.~~

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

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

12 (5) (a) THE DIRECTOR, IN ACCORDANCE WITH ARTICLE 4 OF THIS
13 TITLE:

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

16 (II) SHALL ADOPT RULES AND STANDARDS:

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

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

26 (b) THE RULES AND STANDARDS PROMULGATED PURSUANT TO
27 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF

1 THIS SUBSECTION (5) CONSTITUTE THE MINIMUM STANDARDS FOR ALL
2 PRESCRIBED BURNING CONDUCTED IN THE STATE, EXCEPT FOR PRESCRIBED
3 BURNING CONDUCTED BY AN AGENCY OF THE FEDERAL GOVERNMENT.

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

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

20 (7) (a) THE DIVISION SHALL COOPERATE WITH AND PROVIDE
21 ADVISORY SERVICES TO ANY PERSON DESIRING TO USE PRESCRIBED
22 BURNING, THE OBJECTIVE OF WHICH IS THE PREVENTION OF
23 HIGH-INTENSITY WILDLAND FIRES, WATERSHED MANAGEMENT,
24 VEGETATION MANAGEMENT, FOREST IMPROVEMENT, WILDLIFE HABITAT
25 IMPROVEMENT, OR ANY OTHER OBJECTIVE THAT IS DEEMED TO BE IN THE
26 PUBLIC INTEREST, OR ANY COMBINATION OF SUCH OBJECTIVES.

27 (b) THE DIVISION SHALL PROVIDE INFORMATION AND TECHNICAL

1 ASSISTANCE TO UNITS OF LOCAL GOVERNMENT, UPON REQUEST FROM THE
2 LOCAL GOVERNMENT, CONCERNING PRESCRIBED BURNING.

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

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

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

16 **SECTION 7.** In Colorado Revised Statutes, **add** 24-33.5-1217.5,
17 24-33.5-1217.7, and 24-33.5-1217.9 as follows:

18 **24-33.5-1217.5. Minimum prescribed burning standards.**

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

21 (a) ENSURE THAT PRESCRIBED BURNING IS THE CONTROLLED
22 APPLICATION OF FIRE TO VEGETATIVE FUELS UNDER SPECIFIED
23 ENVIRONMENTAL CONDITIONS IN ACCORDANCE WITH A WRITTEN
24 PRESCRIPTION PLAN, WHICH PLAN:

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

26 (II) IS DESIGNED TO ACCOMPLISH PLANNED LAND MANAGEMENT
27 OBJECTIVES; AND

1 (III) CONFORMS TO THIS ARTICLE AND THE RULES AND STANDARDS
2 ADOPTED IN ACCORDANCE WITH THIS ARTICLE.

3 (b) INCLUDE INFORMATION ON PLANNING, PREPARING, AND
4 IMPLEMENTING SAFE, EFFECTIVE PRESCRIBED BURNING, WHICH
5 INFORMATION:

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

10 (II) CONTAINS SPECIFIC CRITERIA WITH RESPECT TO MASTICATED
11 FUELS;

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

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

18 (II) (A) UNTIL THE FIRE IS ADEQUATELY CONFINED TO
19 REASONABLY PREVENT ESCAPE OF THE FIRE FROM THE AREA INTENDED TO
20 BE BURNED; OR

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

23 (d) ESTABLISH APPROPRIATE GUIDELINES FOR SIZE OF BURNING
24 CREWS SUFFICIENT TO:

25 (I) CONDUCT THE BURN IN ACCORDANCE WITH THE PRESCRIPTION
26 PLAN; AND

27 (II) PROVIDE ADEQUATE PROTECTION FOR THE SAFETY OF PERSONS

1 AND OF ADJACENT PROPERTY.

2 (e) ENCOURAGE EVALUATION OF ALTERNATIVES TO PRESCRIBED
3 BURNING, SUCH AS MECHANICAL TREATMENT, AND GUIDE THE USER
4 THROUGH THE SAFE AND PRUDENT APPLICATION OF PRESCRIBED BURNING,
5 WHEN IT IS DETERMINED TO BE AN APPROPRIATE METHOD; AND

6 (f) SET FORTH REQUIREMENTS FOR RECORDKEEPING, TIMELY
7 NOTIFICATION TO ADJACENT LAND OWNERS AND LOCAL AUTHORITIES, AND
8 PUBLIC INFORMATION CAMPAIGNS.

9 (2) THE RULES AND STANDARDS ADOPTED BY THE DIRECTOR MUST
10 BE PROMULGATED IN CONSULTATION WITH THE COLORADO PRESCRIBED
11 FIRE COUNCIL, OR AN ANALOGOUS SUCCESSOR ORGANIZATION, AND OTHER
12 SUBJECT MATTER EXPERTS AS THE DIRECTOR DEEMS APPROPRIATE. IN
13 PROMULGATING SUCH RULES AND STANDARDS, THE DIRECTOR SHALL
14 CONSIDER THE CURRENT STATE OF RESEARCH AND BEST MANAGEMENT
15 PRACTICES FOR PRESCRIBED BURNING.

16 **24-33.5-1217.7. Multiagency agreement for cooperative use of**
17 **prescribed fire - rules - gifts, grants, and donations.** (1) THE DIRECTOR
18 MAY ENTER INTO A MASTER AGREEMENT WITH LOCAL, STATE, OR FEDERAL
19 LAND MANAGEMENT AGENCIES TO CONDUCT JOINT PRESCRIBED BURNING
20 OPERATIONS ON WILDLANDS AND FEDERAL LANDS WHERE THE DIRECTOR
21 DETERMINES THAT THE OPERATIONS SERVE THE PUBLIC INTEREST AND ARE
22 BENEFICIAL TO THE STATE. THIS MASTER AGREEMENT SHALL BE KNOWN
23 AS THE "MULTIAGENCY AGREEMENT FOR COOPERATIVE USE OF
24 PRESCRIBED FIRE" AND MUST ESTABLISH GUIDELINES FOR THE
25 COOPERATIVE MANAGEMENT OF JOINT PRESCRIBED BURNING OPERATIONS.

26 (2) THE MASTER AGREEMENT ENTERED INTO PURSUANT TO THIS
27 SECTION MUST REQUIRE THE COMPLETION OF A PROJECT AGREEMENT FOR

1 EACH INDIVIDUAL PRESCRIBED BURN, WHICH PROJECT AGREEMENTS MUST
2 INCLUDE THE FOLLOWING:

- 3 (a) A LIST OF ALL PARTICIPANTS IN THE AGREEMENT;
- 4 (b) A JOINT PRESCRIBED BURN PLAN;
- 5 (c) THE PROJECT COSTS TO BE ASSUMED BY EACH PARTICIPANT;
- 6 (d) A SUMMARY OF THE BENEFITS THAT EACH PARTICIPANT WILL
7 RECEIVE; AND
- 8 (e) AN APPORTIONMENT OF EACH PARTICIPANT'S SUPPRESSION
9 COSTS IN THE EVENT A WILDFIRE RESULTS FROM THE PROJECT.

10 (3) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (3),
11 THE PROJECT COSTS TO BE ASSUMED BY EACH PARTICIPANT MUST BE
12 BASED ON THE BENEFITS RECEIVED BY EACH PARTICIPANT.

13 (b) (I) FOR PROJECTS CONDUCTED ON WILDLANDS OTHER THAN
14 WILDLANDS UNDER THE JURISDICTION OF THE FEDERAL GOVERNMENT, THE
15 STATE MAY ASSUME A PROPORTIONATE SHARE OF THE COSTS OF SITE
16 PREPARATION AND PRESCRIBED BURNING CONDUCTED PURSUANT TO THIS
17 SECTION. IN THIS CASE, THE STATE'S SHARE OF THOSE COSTS MUST BE
18 CALCULATED AT THE SAME RATIO TO THE TOTAL COSTS OF THE OPERATION
19 AS THE PUBLIC BENEFITS ARE TO ALL PUBLIC AND PRIVATE BENEFITS TO BE
20 DERIVED FROM THE PRESCRIBED BURNING OPERATION, AS ESTIMATED AND
21 DETERMINED BY THE DIRECTOR.

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

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

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

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

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

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

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

1 (d) SPECIFY THE DUTIES OF, AND THE PRECAUTIONS TAKEN BY, THE
2 PERSON CONTRACTING WITH THE DIVISION AND ANY PERSONNEL
3 FURNISHED BY THAT PERSON;

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

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

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

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

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

24 (3) WILDFIRES BURNING UNCONTROLLED ON FORESTED, BRUSH, OR
25 GRASSLAND AREAS THAT POSE A HAZARD TO LIFE AND PROPERTY
26 CONSTITUTE A PUBLIC NUISANCE. EMPLOYEES OR AGENTS OF THE DIVISION
27 HAVE THE RIGHT TO ENTER LAND TO CONTROL, SUPPRESS, OR INVESTIGATE

1 WILDFIRES WITHOUT LIABILITY FOR TRESPASS.

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

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

8 **18-13-109. Firing woods or prairie.** (2) (b) The following
9 activities ~~shall~~ DO not ~~be~~ CONSTITUTE offenses under this subsection (2):

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

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

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

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

1 24-33.5-1217, C.R.S. The forest service shall emphasize providing
2 training and technical assistance for landowners, local communities, and
3 state agencies.

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

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

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

18 **24-33.5-1205. Duties of the director and the advisory board.**

19 (1) The director has the following duties relating to the voluntary
20 firefighter, first responder, and hazardous materials responder
21 certification programs and the fire service education and training
22 program:

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

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

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

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

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

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

26 **SECTION 14. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.