

WEST VIRGINIA CODE: §20-3-5a

§20-3-5a. Prescribed Fire Program.

(a) As used in this section:

(1) "Certified prescribed fire manager" means an employee of the Division of Forestry, the Division of Natural Resources, any federal employee, or individual who has successfully completed a certification process established by the director.

(2) "Prescribed fire" means the controlled application of fire or wildland fuels in wildlife management areas, state forests or federal lands, or on private property in either the natural or modified state, under specified environmental conditions, which allows the fire to be confined to a predetermined area and produces the fire behavior and fire characteristics necessary to attain planned fire treatment and ecological, silvicultural, and wildlife management objectives.

(3) "Prescription" means a written statement defining the objectives to be attained by a prescribed fire and the conditions of temperature, humidity, wind direction and speed, fuel moisture, and soil moisture under which a fire will be allowed to burn. A prescription is generally expressed as an acceptable range of the prescription elements.

(b) Director certification process. — The director shall develop and administer a certification process and prescribed burn course for any individual who desires to become a certified prescribed fire manager. The prescribed fire course shall include the following subjects: The legal aspects of prescribed fire, fire behavior, prescribed fire tactics, smoke management, environmental effects, plan preparation, and safety. The director shall give a final examination on these subjects to all attendees. The director may charge a reasonable fee to cover the costs of the prescribed fire course and the examination.

(c) To be certified as a certified prescribed fire manager, a person shall:

(1) Successfully complete all components of the prescribed fire course developed by the director and pass the examination developed for the course;

(2) Successfully complete a prescribed fire course comparable to that developed by the director and pass the examination developed for the course; or

(3) Demonstrate relevant past experience, complete a review course, and pass the examination developed for the prescribed fire course.

(d) Prescribed burning shall be performed in the following manner:

(1) A certified prescribed fire manager shall prepare a prescription for the prescribed fire prior to the burn. The prescription shall include: (A) The landowner's name, address, and

telephone number, and the telephone number of the certified prescribed fire manager who prepared the plan; (B) a description of the area to be burned, a map of the area to be burned, the objectives of the prescribed fire, and the desired weather conditions or parameters; (C) a summary of the methods to be used to start, control, and extinguish the prescribed fire; and (D) a smoke management plan. The smoke management plan shall conform to the Department of Environmental Protection's rule, Control of Air Pollution from Combustion of Refuse, 45 CSR 6. A copy of the prescription shall be retained at the site throughout the period of the burning;

(2) A certified prescribed fire manager shall directly supervise a prescribed fire and ensure that the prescribed fire is in accordance with the prescription; and

(3) The certified prescribed fire manager shall notify the nearest regional office of the division 24 hours prior to the prescribed fire.

(e) A certified prescribed fire manager who conducts a prescribed burn in compliance with the requirements of this article, state air pollution control laws, any rules adopted by the Division of Forestry and the Department of Environmental Protection shall not be liable for damage or injury caused by smoke or fire. This shall not apply whenever a nuisance or damage results from the negligent or improper implementation of the prescribed burn or when the prescribed burn requirements of this section have not been met.

(f) If the actions of any certified prescribed fire manager or the prescriptions prepared by him or her violate any provision of this article, state air pollution control laws, the Division of Forestry rules, the Department of Environmental Protection rules or laws, or threaten public health and safety, the director may revoke his or her certification.

(g) The director shall propose rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code for establishing the procedures for the development of a certification program for prescribed fire managers and for prescribed fire control on private property.