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Prescribed Burning Rule

I. Eligibility for Qualification.

A. Initial Eligibility. Applicants may obtain qualification by satisfying the following requirements:

1. Attend the qualified prescribed burning training course provided by the Arkansas Department of Agriculture (Department), or the Arkansas Game and Fish Commission (AGFC), or their designees; and
2. Obtain a passing score on the qualified prescribed burning examination administered by the Department, the AGFC, or their designees.

B. Alternative Qualification methods. Applicants may obtain qualification through the following alternative methods:

1. Upon submission to the Department of proof of qualification or approval by another jurisdiction, applicants may be certified by the Department without further testing or training if the applicant's training and experience is substantially similar to experience and education required for qualification.
2. Upon submission to the Department proof of National Wildfire Coordinating Group training, the Department will consider whether the applicant's training and experience is substantially similar to experience and education required for qualification; and accept the applicant's training and experience in lieu of experience or education required for qualification if the Department determines the training and experience is a satisfactory substitute.
3. Individuals having completed the AGFC Learn to Burn I and II programs prior to the adoption of these rules shall be qualified once they have completed a supplemental training to be provided by the Department and the AGFC.
4. Completion of the Arkansas Prescribed Fire as a Management Tool Workshop shall be accepted as qualifications to become a Qualified Prescribed Burner.

II. Training courses.

A. The Department, and the AGFC, or their designees will periodically provide the training required to become a qualified prescribed burner.

B. The training course will be designed and agreed upon by the Department and the AGFC.

III. Maintaining Qualification. To maintain qualification, a qualified prescribed burner must:

A. Be in charge on site of at least one prescribed burn; and B. Attend a refresher training every three years.

IV. Revocation of Qualification. Prescribed burner qualification may be revoked for:

A. Pleading guilty, entering a plea of nolo contendere, or being found guilty of ~~Unlawful Burning as set forth in Arkansas Code 5-38-310, or similar offense~~ a fire related crime, either misdemeanor or felony, based on the actions of the burner: or

B. A finding of negligence in a civil proceeding as set forth in 1S-30-104(b) on more than one occasion.

V. Review Committee

A. The Review Committee shall:

1. Review other states' requirements and determine if they satisfy the requirements to be recognized as a Qualified Prescribed Burner in Arkansas;
2. Develop the qualified prescribed burner training course to be taught by both the Department and the AGFC;
3. Develop any other training described above; and Be chaired by the person who serves as the Assistant State Forester for Protection in the Department of Agriculture's Forestry Division.

B. The Secretary of Agriculture and the Director of the AGFC, or their designees, shall each appoint two qualified prescribed burners to serve on the committee.

VI. 100 Acre Tract Criteria
A. Non-qualified prescribed burners may burn one 100 acre (or less) forested tract per day under the guidance of a properly developed prescribed burn plan in accordance with Act 695.

State of Arkansas

As Engrossed: S3/27/23

94th General Assembly

A Bill

Regular Session, 2023

SENATE BILL 415

By: Senators Stone, Gilmore, B. Johnson, *J. Boyd, B. Davis, Hill, M. McKee, G. Stubblefield, D. Wallace*

By: Representatives Beaty Jr., Wardlaw

For An Act To Be Entitled

AN ACT TO ESTABLISH THE ARKANSAS PRESCRIBED BURNING
ACT; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE ARKANSAS PRESCRIBED
BURNING ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 15, Chapter 30, is amended to add an
additional subchapter to read as follows:

Subchapter 1 – Arkansas Prescribed Burning Act

15-30-101. Title.

This subchapter shall be known and may be cited as the "Arkansas
Prescribed Burning Act".

15-30-102. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The prescribed burning of forestlands is a management tool
that is beneficial to Arkansas's public safety, forest, and wildlife
resources, environment, and economy;

(2) The prescribed burning of forestlands reduces the naturally
occurring buildup of vegetative fuels on forestlands, which reduces the risk
and severity of wildfires and lessens the loss of life and property when
wildfires occur;



1 (3) The state's ever-increasing population is resulting in urban
2 development directly adjacent to fire-prone forestlands, which is referred to
3 as a wildland-urban interface area;

4 (4) The use of prescribed burning in these wildland-urban
5 interface areas substantially reduces the risk of wildfires that cause
6 damage;

7 (5) Many of Arkansas's natural ecosystems require periodic fire
8 for their survival;

9 (6) Prescribed burning is essential to the perpetuation,
10 restoration, and management of many plant and animal communities;

11 (7) Prescribed burning benefits game, nongame, and endangered
12 wildlife species by increasing the growth and yield of plants that provide
13 forage and an area for escape and brooding and that satisfy other habitat
14 needs;

15 (8) Forestlands are economic, biological, and aesthetic
16 resources of statewide significance;

17 (9) In addition to reducing the frequency and severity of
18 wildfires, prescribed burning of forestlands helps to prepare sites for
19 replanting and natural seeding, to control insects and diseases, and to
20 increase productivity;

21 (10) Prescribed burning enhances the resources on public use
22 lands, such as state and national forests, wildlife refuges, nature
23 preserves, and wildlife management areas; and

24 (11) Prescribed burning enhances private lands that are managed
25 for wildlife refuges, recreation, nature preserves, game lands, and other
26 purposes.

27 (b) It is the intent of the General Assembly that prescribed burning is
28 conducted in Arkansas:

29 (1) To reap the benefits described in subsection (a) of this
30 section; and

31 (2) In a responsible and safe manner.

32
33 15-30-103. Definitions.

34 As used in this subchapter:

35 (1) "Landowner" means the possessor of a fee interest, a tenant,
36 lessee, holder of a conservation easement as defined in § 15-20-402, lawful

1 occupant, or person in lawful control of the premises;

2 (2)(A) "Prescribed burning" means the planned and controlled
3 application of fire to vegetative fuels under specified weather,
4 environmental, and other conditions, while following appropriate
5 precautionary measures that will:

6 (i) Confine the fire to a predetermined area; and
7 (ii) Accomplish the intended management objectives
8 for the area to be burned.

9 (B) "Prescribed burning" does not include crop residue
10 burning;

11 (3) "Prescribed burning prescription" means a written plan
12 establishing the conditions and methods for conducting prescribed burning
13 that:

14 (A) Is prepared by a qualified prescribed burner; and

15 (B) Addresses the starting, controlling, and extinguishing
16 of the prescribed burning; and

17 (4)(A) "Qualified prescribed burner" means an individual who has
18 successfully completed a prescribed burner training program approved by the
19 Department of Agriculture or the Arkansas State Game and Fish Commission.

20 (B) "Qualified prescribed burner" includes an individual
21 who has successfully completed a prescribed burner training program in
22 another state if the prescribed burner training program is recognized and
23 approved by the department or commission.

24
25 15-30-104. Civil liability.

26 (a) A prescribed burning conducted in compliance with this subchapter
27 is in the public interest and does not constitute a public or private
28 nuisance.

29 (b) A landowner or a landowner's agent who conducts a prescribed
30 burning in compliance with this subchapter is not liable in a civil action
31 for any damage or injury caused by a fire in the prescribed burning,
32 including without limitation the reignition of a smoldering and previously
33 contained fire or resulting from smoke, unless the claimant proves by a
34 preponderance of the evidence that the claimant suffered damages as a result
35 of negligence by the landowner or the landowner's agent in planning,
36 implementing, or conducting the prescribed burning.

1
2 15-30-105. Requirements for prescribed burning prescriptions and
3 prescribed burnings.

4 (a)(1) Before conducting a prescribed burning, a qualified prescribed
5 burner shall develop a prescribed burning prescription.

6 (2) A copy of the prescribed burning prescription developed
7 under subdivision (a)(1) of this section shall be:

8 (A) Provided to the landowner; and

9 (B) Except as provided in subdivision (c)(3) of this
10 section, in the possession of the qualified prescribed burner on the site of
11 the prescribed burning throughout the duration of the prescribed burning.

12 (b) A prescribed burning prescription shall include:

13 (1) The landowner's name and address;

14 (2) A description of the area to be burned;

15 (3) A map of the area to be burned;

16 (4) The objectives of the prescribed burning;

17 (5) The name of the qualified prescribed burner responsible for
18 conducting the prescribed burning;

19 (6) A summary of the methods that the qualified prescribed
20 burner intends to use to start, control, and extinguish the prescribed
21 burning, based on the particular circumstances involved with the prescribed
22 burning; and

23 (7) A description of the allowable weather conditions in which
24 the prescribed burning can be conducted.

25 (c)(1) A qualified prescribed burner shall conduct a prescribed
26 burning in accordance with a prescribed burning prescription that satisfies
27 subsection (b) of this section.

28 (2) Except as provided in subdivision (c)(3) of this section,
29 from the start of the prescribed burning until the prescribed burning is
30 adequately confined to reasonably prevent escape of the prescribed burning
31 from the area intended to be burned, the qualified prescribed burner shall
32 be:

33 (A) Present on the site of the prescribed burning; and

34 (B) In charge of the prescribed burning.

35 (3) A landowner may conduct a prescribed burning and be
36 considered in compliance with this subchapter without being a qualified

1 prescribed burner if the landowner is:

2 (A) Burning a tract of forestland of one hundred (100)
3 acres or less owned by the landowner; and

4 (B) Following all conditions established in a prescribed
5 burning prescription prepared by a qualified prescribed burner.

6 (d) Before conducting a prescribed burning, a landowner or the
7 landowner's agent shall notify the Department of Agriculture and, if
8 requested by the department, provide the department with a copy of the
9 prescribed burning prescription.

10
11 15-30-106. Application of other law.

12 A prescribed burning conducted in compliance with this subchapter is
13 not subject to the open-air fire provisions in §§ 20-22-301 - 20-22-306.

14
15 15-30-107. Rules.

16 The Department of Agriculture shall promulgate rules on the
17 requirements for becoming a qualified prescribed burner under this
18 subchapter.

19
20 /s/Stone

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23 APPROVED: 4/11/23
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