CHAPTER 34

South Carolina Prescribed Fire Act

**SECTION 48‑34‑10.** Short title.

 This chapter is known as the “South Carolina Prescribed Fire Act”.

HISTORY: 1994 Act No. 325, Section 1.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑34‑20.** Definitions.

 As used in this chapter:

 (1) “Prescribed fire” means a controlled fire applied to forest, brush, or grassland vegetative fuels under specified environmental conditions and precautions which cause the fire to be confined to a predetermined area and allow accomplishment of the planned land management objectives. It also is known as “controlled burn”.

 (2) “Certified prescribed fire manager” means an individual who successfully completes a certification program approved by the State Commission of Forestry.

 (3) “Prescribed fire plan” means a written prescription for starting and controlling a prescribed fire.

HISTORY: 1994 Act No. 325, Section 1.

**SECTION 48‑34‑30.** Authority to promulgate regulations.

 The State Commission of Forestry shall promulgate regulations for the use of prescribed fire and for the certification of prescribed fire managers.

HISTORY: 1994 Act No. 325, Section 1.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑34‑40.** Requirements for conducting prescribed fire; South Carolina Smoke Management Guidelines.

 (A) For purposes of this section, “South Carolina Smoke Management Guidelines” means smoke management guidelines for vegetative debris burning for forestry, agriculture, and wildlife purposes that are promulgated as regulations by the State Forestry Commission pursuant to the Administrative Procedures Act.

 (B) Prescribed fires conducted pursuant to this chapter:

 (1) must have a written prescribed fire plan that:

 (a) complies with the South Carolina Smoke Management Guidelines;

 (b) is prepared before authorization to burn is issued by the State Commission of Forestry; and

 (c) is on site and followed during the burn;

 (2) must have present at least one certified prescribed fire manager who must:

 (a) be certified by the commission;

 (b) personally supervise the burn from ignition until the certified prescribed fire manager determines the burn to be safe;

 (c) fully consider both fire behavior and related smoke management issues during and after the burn;

 (3) are considered in the public interest and do not constitute a public or private nuisance when conducted pursuant to the South Carolina Smoke Management Guidelines, Chapters 1 and 35, Title 48, and Chapter 2, Title 50; prescribed fires that are purposefully set in accordance with these chapters and the South Carolina Smoke Management Guidelines are exempt from the open fire prohibition pursuant to R. 61‑62.2 and are acceptable to the Department of Health and Environmental Control if the fire is for:

 (a) burning forest lands for specific management practices;

 (b) agricultural control of diseases, weeds, and pests and for other specific agricultural purposes;

 (c) open burning of trees, brush, grass, and other vegetable matter for game management purposes;

 (4) are considered a property right of the property owner.

HISTORY: 1994 Act No. 325, Section 1; 2012 Act No. 139, Section 1, eff April 2, 2012.

Editor’s Note

2012 Act No. 139, Section 3, provides as follows:

“The guidelines published by the State Forestry Commission in August 2006 entitled, “Smoke Management Guidelines for Vegetative Debris Burning for Forestry, Agriculture, and Wildlife purposes in the State of South Carolina” are hereby considered promulgated by the State Forestry Commission and approved by the General Assembly. Any amendment, replacement, or revision of these guidelines must be promulgated by the State Forestry Commission pursuant to the Administrative Procedures Act.”

Effect of Amendment

The 2012 amendment rewrote the section.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑34‑50.** Liability for damages, injury, or loss caused by prescribed fire.

 A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by fire or other consequences of the prescribed fire, except for smoke, unless negligence is proven. A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by the resulting smoke of a prescribed fire unless gross negligence or recklessness is proven.

HISTORY: 1994 Act No. 325, Section 1; 2012 Act No. 139, Section 2, eff April 2, 2012.

Editor’s Note

2012 Act No. 139, Section 3, provides as follows:

“The guidelines published by the State Forestry Commission in August 2006 entitled, “Smoke Management Guidelines for Vegetative Debris Burning for Forestry, Agriculture, and Wildlife purposes in the State of South Carolina” are hereby considered promulgated by the State Forestry Commission and approved by the General Assembly. Any amendment, replacement, or revision of these guidelines must be promulgated by the State Forestry Commission pursuant to the Administrative Procedures Act.”

Effect of Amendment

The 2012 amendment rewrote the first sentence and added the second sentence relating to the standard of care for liability for damage, injury, or loss caused by the resulting smoke of a prescribed fire.

Library References

Environmental Law 44.

Fires 7.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 175, 411.

C.J.S. Fires Sections 8 to 17.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑34‑60.** Conducting prescribed fire without certified prescribed manager present.

 Notwithstanding the requirements of this chapter, a person may conduct a prescribed fire without a certified prescribed fire manager present.

HISTORY: 1994 Act No. 325, Section 1.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.