DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2013 session. The unannotated South Carolina Code, consisting only of Code text, numbering, and history may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify the Legislative Services Agency at LSA@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LSA will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

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.

**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.

**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.

**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.

**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.