

HB0092S01 compared with HB0092

~~{deleted text}~~ shows text that was in HB0092 but was deleted in HB0092S01.

inserted text shows text that was not in HB0092 but was inserted into HB0092S01.

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Representative Casey Snider proposes the following substitute bill:

FIRE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses fires.

Highlighted Provisions:

This bill:

- ▶ ~~{requires certain fires be exempted from certain regulation;~~
- ▶ ~~prohibits a governmental agency from prohibiting fires being started when the United States National Weather Service clearing index for the area where the fire is to occur is above a certain level}~~ defines terms;
- ▶ addresses the process of approval for certain fire events; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

~~{AMENDS:~~

~~———— 19-2-114, as last amended by Laws of Utah 2015, Chapter 154~~

~~}RENUMBERS AND AMENDS:~~

~~19-2a-105, (Renumbered from 19-2-107.6, as enacted by Laws of Utah 2019, Chapter 51)~~

Be it enacted by the Legislature of the state of Utah:

~~{ ——— Section 1. Section 19-2-114 is amended to read:~~

~~———— 19-2-114. **Activities not in violation of chapter or rules.**~~

~~———— (1) As used in this section:~~

~~———— (a) "Land manager" means a person who administers, directs, oversees, or controls the use of public land, including the application of fire to the land.~~

~~———— (b) "Pile burn" means a fire or fires that a land manager ignites for fuel mitigation designed to keep wildland healthy and prevent dangerous wildfires by burning leaves, pine needles, downed trees, standing trees, thick vegetation, or similar other organic material.~~

~~———— (c) "Prescribed fire" means a fire that a land manager ignites to meet a specific public safety objective.~~

~~———— (d) "Wildland" means an area in which development is essentially nonexistent other than the existence of a pipeline, power line, road, railroad, or other transportation or conveyance facility or one or more structures that are widely scattered.~~

~~———— (2) The following are not a violation of this chapter or of a rule made under [it] this chapter:~~

~~———— [(1)] (a) burning incident to horticultural or agricultural operations of:~~

~~———— [(a)] (i) prunings from trees, bushes, and plants; or~~

~~———— [(b)] (ii) dead or diseased trees, bushes, and plants, including stubble;~~

~~———— [(2)] (b) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;~~

~~———— [(3)] (c) controlled heating of orchards or other crops to lessen the chances of their~~

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~~being frozen so long as the emissions from this heating do not violate minimum standards set by the board, [and]~~

~~—— (d) a prescribed fire;~~

~~—— (e) a pile burn; and~~

~~—— [(4)] (f) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel [when the United States Weather Service clearing index for the area where the burn is to occur is above 500].~~

‡ Section ~~{2}~~1. Section **19-2a-105**, which is renumbered from Section 19-2-107.6 is renumbered and amended to read:

~~[19-2-107.6].~~ **19-2a-105. Prescribed fires, pile burns, and nonfull suppression events.**

(1) As used in this section:

(a) "Board" means the Air Quality Board.

~~[(a)]~~ (b) "Burn plan" means the plan required for each fire application ignited by a land manager.

~~[(b)]~~ (c) "Burn window" means the period of time during which the prescribed fire is scheduled for ignition.

(d) "Director" means the director of the division.

~~{d}~~e "Division" means the Division of Air Quality created in Section 19-1-105.

(f) "Exceptional event" means one or more prescribed burning or pile burning events and the resulting emissions that affect air quality in such a way that there exists a clear causal relationship between the specific event and the monitored exceedance or violation.

~~[(c)]~~ ~~{c}~~g "Land manager" means a person who administers, directs, oversees, or controls the use of public land, including the application of fire to the land.

~~[(d)]~~ ~~{f}~~h "Large prescribed fire" means a ~~{prescribed}~~ fire that ~~{}~~ a land manager ignites to meet a specific objective, including ~~{}~~ has a resource benefit that covers 20 acres or more per burn.

~~[(e)]~~ ~~{g}~~i "Large prescribed pile fire" means a fire that a land manager ignites to meet a specific objective, including a resource benefit, that exceeds 30,000 cubic feet per day.

~~[(f)]~~ ~~{h}~~j "Nonfull suppression event" means a naturally ignited wildland fire for

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which a land manager secures less than full suppression to accomplish a specific prestated resource management objective in a predefined geographic area.

~~(f)(k)~~ "Pile ~~burn~~ burning" means ~~the same as that term is defined in Section 19-2-114.~~

~~(j)~~ "Prescribed fire" means the same as that term is defined in Section 19-2-114.

~~(g)~~ (k) a fire or fires that a land manager ignites for fuel mitigation designed to reduce the risk of catastrophic fire, improve ecological health, and prevent dangerous wildfires by burning piled or scattered leaves, pine needles, downed trees, natural woody debris, thick vegetation, or similar organic material left behind after logging or other forest treatments.

(l) "Prescribed burning" means the planned and controlled burning of plant material in order to minimize the risk of catastrophic wildfire or to meet specific land management objectives.

~~(g)~~ (m) "Wildland" means an area in which development is essentially nonexistent other than the existence of a pipeline, power line, road, railroad, or other transportation or conveyance facility or one or more structures that are widely scattered.

(2) (a) The division may not permit a land manager to conduct a large prescribed fire or large prescribed pile fire if the land manager does not comply with the rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) In the rules made by the board under this Subsection (2), the board shall require the land manager to:

(i) describe the use of a state, county, or municipal resource in the large prescribed fire or large prescribed pile fire;

(ii) provide the division the burn plan for a large prescribed fire or large prescribed pile fire by no later than one week before the day of the burn window; and

(iii) notify the division of a nonfull suppression event once a fire becomes a nonfull suppression event.

~~(c) In the rules made by the board under this Subsection (2), the board may not prohibit a land manager from igniting a fire on the basis that~~ 3) The director shall approve a prescribed burning or pile burning in wildland areas and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index ~~for the area in which~~

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~~the prescribed fire or pile burn is to occur is above a certain level.~~

~~(3) A state or local government entity other than the board with jurisdiction over a fire may not prohibit a land manager from igniting a fire on the basis that~~ in the area of the burn is 500 or greater;

(b) the United States National Weather Service clearing index {for the area in which} in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager demonstrates to the director that the planned prescribed burning or pile burning will:

(i) not cause an exceedance of a national ambient air quality standard outside the wildland area;

(ii) minimize the long range transport of smoke; and

(iii) protect visibility in mandatory federal class 1 areas; or

(c) the United States National Weather Service clearing index in the burn area is less than 500 and the prescribed {fire or pile burn is to occur is above a certain level.

}burning or pile burning may cause an exceedance of a national ambient air quality standard outside the wildland area if the land manager demonstrates to the director that the prescribed burning or pile burning fuel conditions are optimal to:

(i) protect safety of the public and fire staff;

(ii) minimize the risk of catastrophic fire;

(iii) achieve necessary watershed and ecological conditions; and

(iv) establish, restore, or maintain a sustainable and resilient wildland ecosystem or to preserve endangered or threatened species through a program of prescribed burning or pile burning.

(4) The director shall approve a prescribed burning or pile burning to reduce hazardous fuels for public safety in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager:

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(i) provides a demonstration that includes an assessment of the impact to local receptors;

(ii) implements measures to notify residents; and

(iii) minimizes residents exposure to smoke.

(5) The director shall approve a prescribed burning or pile burning for resource management purposes in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager demonstrates that the planned prescribed burning or pile burning will:

(i) not cause an exceedance of a national ambient air quality standard;

(ii) minimize the long range transport of smoke; and

(iii) protect visibility in mandatory federal class 1 areas.

(6) The division shall make the necessary filings with the United States Environmental Protection Agency if a prescribed burning or pile burning approved by the director results in an exceptional event.