

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 2008

By: McNiel

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5  
6 AS INTRODUCED

7 An Act relating to agriculture; amending 2 O.S. 2011,  
8 Section 16-28.2, which relates to prescribed burning  
9 requirements; modifying time to notify adjoining  
landowners prior to prescribed burn; and providing an  
effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-28.2, is  
14 amended to read as follows:

15 Section 16-28.2 A. 1. The provisions of this section apply to  
16 a prescribed burn.

17 2. Any owner wishing to set fire to land in order to conduct a  
18 prescribed burn shall comply with the provisions of this section.

19 B. 1. ~~Within sixty (60)~~ No less than seven (7) days prior to  
20 conducting a prescribed burn, the owner of land to be burned shall  
21 orally or in writing notify all landowners whose lands adjoin the  
22 owner's land to be burned.

23 2. If any landowner is burning on a large, consolidated tract  
24 of land in which there are multiple adjacent owners, only those

1 owners with adjoining land within one (1) mile of the proposed burn  
2 area must be notified.

3 3. The owner shall include in the written notice or shall  
4 orally notify the adjoining landowners of the proposed date and  
5 location of the burn and a telephone number where the owner can be  
6 reached for information regarding the prescribed burn.

7 C. In addition to notification of adjoining property owners  
8 pursuant to subsection B of this section, the owner of the land to  
9 be burned shall complete the prescribed burn notification plan  
10 specified in subsection D of this section and shall submit such plan  
11 to the rural fire department nearest the land to be burned. If the  
12 land to be burned is in a protection area, the owner shall also  
13 submit a copy of the notification plan to the local office or local  
14 representative of the Forestry Division nearest to the land to be  
15 burned.

16 D. Any person wishing to conduct a prescribed burn shall  
17 complete this form, distributed by the Oklahoma Department of  
18 Agriculture, Food, and Forestry, which shall be in substantially the  
19 following form:

20 PRESCRIBED BURN NOTIFICATION PLAN

21 Name \_\_\_\_\_ Phone \_\_\_\_\_  
22 Address \_\_\_\_\_ County \_\_\_\_\_  
23 City, State, Zip \_\_\_\_\_  
24 Ranch name, if any \_\_\_\_\_



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The original copy of the form must be filed with the rural fire department nearest to the land to be burned. If conducting a prescribed burn within a protection area, a copy of the prescribed burn notification plan must be filed with the local office or local representative of the Forestry Division nearest to the land to be burned. A copy of the plan shall be retained by the owner of the land to be burned.

E. 1. Whether the land is located within or outside a protection area, the owner of land to be burned shall, within forty-eight (48) hours of conducting a prescribed burn, notify the rural fire department receiving a copy of the prescribed burn notification plan that the prescribed burn will be conducted.

2. Within a protection area, the owner of land to be burned shall also, within the time period required by Section 7 16-28.1 of this ~~act~~ title, notify the local office or local representative of the Forestry Division receiving a copy of the prescribed burn notification plan.

F. A prescribed burn conducted pursuant to provisions of this section shall:

1. Be considered in the public interest and shall not constitute a public or private nuisance; and
2. Be considered a property right of the property owner if vegetative fuels are used.

1 G. 1. Any owner conducting a prescribed burn who is found by a  
2 court of law to have caused damages or injury as a result of  
3 accident or by ordinary negligence shall only be civilly liable for  
4 actual damages resulting from the prescribed burn.

5 2. Any owner conducting a prescribed burn who is found by a  
6 court of law to have committed gross negligence in conducting the  
7 prescribed burn may be found to be both civilly liable for the  
8 amount of damage done by the fire, and criminally liable pursuant to  
9 paragraph 3 of this subsection.

10 3. Any owner setting or causing to be set on fire land as  
11 authorized by this section, and as a result of gross negligence  
12 permitting the fire to spread beyond the control of the owner or  
13 beyond the bounds of the owner's land, shall be deemed guilty of a  
14 misdemeanor, and upon conviction thereof, be fined a sum not more  
15 than Five Hundred Dollars (\$500.00), or imprisonment in the county  
16 jail for a period not more than six (6) months.

17 SECTION 2. This act shall become effective November 1, 2013.

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