

## Overview of 2012 Changes to SC Prescribed Fire Act

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Of the total prescribed burn acreage in 2012, approximately 76% (383,552 acres) were burned by a private landowner, and 49% of those acres were burned by a private landowner who is also a Certified Prescribed Fire Manager. In SC there are approximately 1500 Certified Prescribed Fire Managers that have completed the necessary courses as set forth in the original South Carolina Prescribed Fire Act (SC 48-34-20) of 1994 which established the CPFM program.

In 2012 this Act was updated to provide additional liability protection for the private landowner. In order to be protected the burner(s) must:

- Have a written plan prepared before authorization is issued by the SC Forestry Commission
- Burn Plan must be on site during the burn
- Must have at least one CPFM present and supervising the burn from ignition until it is declared safe according to certification guidelines who must:
  - Be certified by SC Forestry Commission
  - Personally supervise the burn from ignition until CPFM determines the burn to be safe to leave
  - Fully consider both fire behavior and related smoke management issues during and after the burn

The changes made in 2012 only provide gross negligence liability protection for damages/injuries related to SMOKE from prescribed fire. Simple negligence still applies to damages/injuries related to loss caused by prescribed fire. The difference between “gross negligence”, “simple negligence”, and “recklessness” can be seen in their definitions:

- Negligence: Conduct that falls below the standards of behavior established by law for the protection of others against unreasonable risk of harm. A person has acted negligently if he or she has departed from the conduct expected of a reasonably prudent person acting under similar circumstances.
- Gross Negligence: An indifference to, and a blatant violation of, a legal duty with respect to the rights of others.
- Recklessness: Rashness; heedlessness; wanton conduct. The state of mind accompanying an act that either pays no regard to its probably or possibly injurious consequences, or which, though foreseeing such consequences, persists in spite of such knowledge. Recklessness transcends ordinary negligence. To be reckless, conduct must demonstrate indifference to consequences under circumstances involving peril to the life or safety of others, although no harm is intended.

As you can see it is very important that landowners be made aware of the availability of the Certified Prescribed Fire Manager program and gain the proper education prior to conducting their own burns. Without completing the CPFM program the new legislation will be unable to provide them protection.

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