

RCW 76.04.196 Prescribed fire claims fund pilot program— Prescribed fire claims account. (Expires June 30, 2033.) (1) Subject to the availability of amounts appropriated for this specific purpose, the office of risk management shall, in consultation with the department, establish a prescribed fire claims fund pilot program for the purposes of:

(a) Supporting coverage for losses from prescribed fires and cultural burning on department protected lands and on tribal lands where an agreement exists between the Indian tribe and the department or where approved by the Indian tribe. The fund would not be utilized when prescribed fires or cultural burning have federal tort claims act coverage under a federally recognized burn plan; and

(b) Supporting nonstate and nonfederal entities that are alleged to have caused damages resulting from appropriately conducted prescribed fires or cultural burning on department protected lands and tribal lands as described in (a) of this subsection.

(2) To be eligible for reimbursement under this section, a claim must meet the criteria in (a) and (b) of this subsection.

(a) The claim results from a prescribed fire or cultural burn conducted on department protected lands and tribal lands as described in subsection (1)(a) of this section:

(i) By a certified burn manager, under an approved burn plan, with applicable permits and in accordance with any other applicable conditions or requirements as determined by the department; or

(ii) By a cultural fire practitioner, in accordance with any applicable burn plan or permit.

(b) The claim is for:

(i) Property or economic damage, as described under RCW 76.04.760(3) (a), (c), and (d), suffered by the claimant as a result of the prescribed fire or cultural burn;

(ii) Reasonable costs authorized for reimbursement by the department under RCW 76.04.475, related to the prescribed fire or cultural burn; or

(iii) Costs of suppression of an escapement for which a person is liable to a third party.

(c) A claim for damage suffered as a result of a prescribed fire or cultural burn started, spread, or otherwise caused by a criminal or negligent act is not eligible for reimbursement under this section.

(3) Upon submission of a claim, the department shall determine and certify to the office of risk management whether the claim meets the criteria in subsection (2) of this section.

(4) The office of risk management may reimburse an eligible claim in an amount equal to or less than the actual losses suffered by the claimant, not to exceed \$2,000,000 per claim. The payment of a claim under this section is conditional on the availability of specific funding for this purpose, and nothing in this section shall be construed to create an entitlement to reimbursement or payment of any claim. The total amount paid for claims may not exceed the amounts available in the account established in subsection (7) of this section.

(5) (a) The office of risk management shall collaborate with the department, other relevant state agencies, the Washington prescribed fire council, cultural fire practitioners, and certified burn managers to establish guidelines governing the pilot program and the administration of the account established in subsection (7) of this section, including:

- (i) Procedures for the submission of claims;
 - (ii) Any additional criteria for claim eligibility, as appropriate; and
 - (iii) A methodology or structure for how the payment of claims will be prioritized in the event that eligible claims exceed the amounts available in the account established in subsection (7) of this section.
- (b) The office of risk management and the department may adopt rules to implement this section.
 - (c) Guidelines and any rules adopted under this section must be made publicly available on the websites of the office of risk management and the department.
- (6) This section does not limit the ability of a person to assert a claim for damages arising from a prescribed fire under any other law. A court shall offset any award of damages to a claimant under an action arising from the same set of alleged facts by the amount of reimbursement provided under this section.
- (7) (a) The prescribed fire claims account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for the reimbursement of claims under this section.
- (b) Upon the expiration of this section, any remaining amounts in the account must be deposited in the natural climate solutions account.
- (8) For the purposes of this section:
- (a) "Certified burn manager" means a prescribed burn manager certified under RCW 76.04.183 or a prescribed fire burn boss certified under the national wildfire coordinating group standards.
 - (b) "Cultural fire practitioner" means a person approved by an Indian tribe as having experience in burning to meet cultural goals or objectives, including subsistence, ceremonial activities, biodiversity, or other benefits.
 - (c) "Department protected lands" has the same meaning as in RCW 76.04.005.
 - (d) "Indian tribe" has the same meaning as in RCW 43.376.010.
- (9) This section expires June 30, 2033. [2025 c 93 s 2.]

Findings—Intent—2025 c 93: "(1) The legislature finds that Washington is experiencing a forest health crisis. Rangeland and forest fires have grown both larger and more damaging in recent years, threatening the health, livelihoods, and homes of Washingtonians. Over the last 10 years, wildfires have burned an average of 470,000 acres across the state. According to the 2020 forest health assessment and treatment framework, approximately 3,000,000 acres in eastern Washington alone are in need of active management or disturbance to improve forest resiliency to stressors such as wildfire and drought.

(2) The legislature finds that prescribed fire and cultural burning are one of the most effective, yet underutilized tools to help address the forest health crisis. Most ecosystems in Washington evolved with fire through stewardship by tribal peoples and ignitions like lightning strikes. Prescribed fire and cultural burning remove dead and downed brush and vegetation, providing more management opportunities for fire suppression across a variety of landscapes by proactively removing hazardous fuels. Compared to wildfire smoke, prescribed fire smoke produces up to 50 percent less PM2.5. Fire also returns important nutrients to the soil, revitalizes plant growth, and

improves wildlife habitat. Tribes have used cultural burning since time immemorial to sustain healthy and resilient lands.

(3) The legislature finds that growing risks of wildfires to communities and the environment generally requires at least a five-fold increase in prescribed burning to effectively reduce accumulated fuels, restore resiliency to landscapes, and protect communities.

(4) The legislature further finds that while prescribed fire escapements are rare, the uncertain financial implications associated with an escapement deter this work despite its low risk. The 2023 Washington prescribed fire barriers assessment report and strategic action plan found that one of the most significant barriers to more prescribed burns has been uncertainty around potential liability.

(5) Therefore, the legislature intends to establish a fire claims fund pilot program to provide loss coverage for prescribed and cultural burns conducted in accordance with applicable requirements. By decreasing the uncertainty associated with these regulated burns, the legislature intends to promote the use of this critical tool for strengthening and protecting our resources and communities." [2025 c 93 s 1.]

Effective date—2025 c 93: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 21, 2025]." [2025 c 93 s 6.]