Prepared Statement of
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U.S. Senate
Committee on Environment and Public Works
Hearing on a Discussion Draft of the Wildfire Emissions Prevention Act
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Main points:

- Prescribed fire is an essential conservation tool for restoring forests, protecting air and water quality, maintaining habitat for native wildlife, and tackling the wildfire crisis.
- One obstacle to using prescribed fire at the scale needed is an unintended effect of the Clean Air Act, under which smoke from wildfires is routinely excluded from air quality limits while less harmful smoke from prescribed fire is penalized.
- The Wildfire Emissions Prevention Act proposes a narrowly tailored solution to this policy problem. It would give the Environmental Protection Agency and states needed flexibility to treat prescribed fire smoke the same as wildfire smoke, while streamlining the process. It would also have no effect on EPA's authority, the pollutants covered by the CAA, or any substantive environmental standard.

Introduction

Chairwoman Capito, Ranking Member Whitehouse, and members of the committee, thank you for the invitation to testify this morning. We urgently need to increase the use of prescribed fire to restore our nation's forests, protect air and water quality, improve and maintain habitat for native wildlife, and reduce the threat wildfires pose to our communities. PERC supports the discussion draft of the Wildfire Emissions Prevention Act, which would give the Environmental Protection Agency and states needed flexibility to exclude smoke from prescribed fire from air quality limits—a major policy obstacle to using prescribed fire at the scale needed.

The Property and Environment Research Center

PERC is the national leader in market solutions for conservation, with over 40 years of research and a network of respected scholars and practitioners.[1] Founded in 1980, PERC is nonprofit, nonpartisan, and proudly based in Bozeman, Montana. Through research, law and policy, and innovative applied conservation programs, PERC explores how aligning incentives for environmental stewardship produces sustainable outcomes for land, water, and wildlife.

For decades, PERC and its affiliated scholars have researched and championed policies to reduce wildfire risk and promote forest health.[2] In particular, PERC has long advocated increased use of prescribed burns as a conservation tool for improving air and water quality, wildlife habitat, and wildfire risks.[3] Recently, PERC was instrumental in establishing Montana's Prescribed Fire Council and passing state legislation authorizing a training and certification program for prescribed burners.[4]

Prescribed fire is a critical, but underused, conservation tool

Many forest and grassland ecosystems in the United States are fire-adapted, meaning that periodic, low- or moderate-intensity fires are necessary to maintain ecosystem health and to support native plants and wildlife.[5] For millenia, these ecosystems were assisted by Indigenous cultural burning practices.[6] However, federal and state policies favoring fire-suppression largely removed fire, including the use of prescribed fire and cultural burning, from many landscapes.[7] As a result, the health of many

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[1] www.perc.org.

[2] *See, e.g.,* Sara Sutherland, Eric Edwards, & Frederik Strabo, *Wildfire Risk Map* (2025), https://perc.org/2025/02/25/perc- wildfire-risk-map/, PERC, *Good Fire, Bad Fire* (2024), https://perc.org/good-fire-bad-fire-landing-page/; Eric Edwards & Sara Sutherland, *Does Environmental Review Worsen the Wildfire Crisis?*, PERC Policy Brief (2022), https://www.perc. org/wp-content/uploads/2022/06/PERC-PolicyBrief-NEPA-Web.pdf; Holly Fretwell & Jonathan Wood, *Fix America's Forests* (2021), https://www.perc.org/wp-content/uploads/2021/04/fix-americas-forests-restore-national-forests-tackle- wildfire-crisis.pdf; Dean Leuck & Jonathan Yoder, *Clearing the Smoke from Wildfire Policy*, PERC Policy Series (2016), https://www.perc.org/wp-content/uploads/old/pdfs/PS-56-WEB%20final.pdf.

[3] *See, e.g.,* Andrew P. Morriss, *Fighting Fire with Finance*, PERC Policy Br. (2025), https://www.perc.org/wp-content/uploads/2025/08/PERC-FightingFire-August2025-Digital.pdf; Jonathan Wood & Morgan Varner, *Burn Back Better: How Western States Can Encourage Prescribed Fire on Private Lands*, PERC & Tall Timbers Report (2023), https://perc.org/wp-content/uploads/2023/05/PERC-BBB-Report-UPDATED-230113-web-2.pdf.

[4] *See* Marcus Strange, *Victory for Montana's Landscapes: HB84 Passes with Broad Support and Bold Vision*, PERC.org (2025), https://www.perc.org/2025/06/26/victory-for-montanas-landscapes-hb84-passes-with-broad-support-and-bold-vision/.

[5] U.S. Dep't of Agric., For. Serv., Gen. Tech. Rep. RMRS-GTR-42-vol. 2, *Wildland Fire in Ecosystems: Effects of Fire on Flora* 4 (2001), https://www.fs.usda.gov/rm/pubs/rmrs_gtr042_2.pdf.

[6] *See* Nat'l Park Serv., *Indigenous Fire Practices Shape our Land*, https://www.nps.gov/subjects/fire/indigenous-fire-practices-shape-our-land.htm (last visited Sept. 5, 2025).

[7] *See* Wood & Varner, *Burn Back Better*, *supra* n. 3, at 4.

of these landscapes has suffered, with the most visible impacts being the growing wildfire crisis in the West.[8]

According to the National Association of State Foresters and Coalition of Prescribed Fire Councils, prescribed fire was applied to nearly 10 million acres in the U.S. in 2021, the most recent year for which data is available.[9] While 10 million acres is a lot, there are more than a billion acres of forests and grasslands in the U.S.[10] And use of prescribed fire is concentrated in the southeast, with nearly two-thirds of the acres burned in that region.[11] In much of the country, only a tiny fraction of the forests and grasslands that need regular prescribed fire receive it.

In light of the environmental and other consequences of removing fire from forest and grassland ecosystems, there is a broad and growing consensus for increasing the use of prescribed fire and cultural burning. Both involve the intentional application of fire to a landscape, under controlled conditions, to remove fuels, reduce wildfire risk, and improve ecosystem health.[12] While these tools entail risks, including smoke and a tiny chance of escape, they are far preferable to the consequences of catastrophic wildfire.

Despite implementing several thousand prescribed fires each year,[13] the Forest Service has acknowledged the need to significantly increase the pace and scale of its use of this conservation tool to address an 80 million acre backlog of needed restoration in our national forests.[14] States have also set goals to increase the use of prescribed fire. California, for instance, has set a goal to use prescribed fire on 400,000 acres per year to restore forest and grassland health.[15]And conservation groups, including The Nature Conservancy and Rocky Mountain Elk Foundation, have invested tens of millions of dollars to increase the use of prescribed fire on lands they own or manage, as well as to support public

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[8] *See id.*

[9] *See* Nat'l Ass'n of State Foresters & Coalition of Prescribed Fire Councils, *2021 Nat'l Prescribed Fire Use Survey Rep't* (2022), https://prescribedfire.net/pdf/2021-National-Rx-Fire-Use-Report_FINAL. pdf.

[10] *See* Clayton P. Winters-Michaud., *Forest and pasture/rangeland accounted for more than half of U.S. land use in new report*, U.S. Dept. of Ag. Econ. Res. Serv. (2024), https://www.ers.usda.gov/data-products/charts-of-note/chart-detail?chartId=110056.

[11] *See 2021 Nat'l Prescribed Fire Use Survey Rep't*, *supra* n. 13 at 7.

[12] *See* Kat Kerlin, *How Indigenous Practices Can Help Forests Thrive*, UC Davis (2022), https://www.ucdavis.edu/news/cultural-burning-illuminated. In many areas, mechanical and other treatments are needed, in combination with prescribed fire, to initially restore ecosystems. *See* GAO, *Fully Following Leading Practices for Agency Reforms Would Strengthen Prescribed Fire Program* (2024), https://www. gao.gov/assets/gao-24-106239.pdf.

[13] *See* GAO, *supra* n. 12.

[14] *See* U.S. Forest Serv., *Nat'l Prescribed Fire Resource Mobilization Strategy* (2023), https://www.fs.usda.gov/sites/default/ files/2023-06/Rx-Fire-Strategy.pdf; *Fix America's Forests*, *supra* n. 2 at 4.

[15] California Wildfire and Forest Resilience Task Force, *California's Strategic Plan for Expanding the Use of Beneficial Fire* (2022), https://wildfiretaskforce.org/wp-content/uploads/2022/05/californias-strategic-plan-for-expanding-the-use-of-beneficial-fire.pdf.

and private land managers use of prescribed fire.[16] Congress, too, has recognized the need for more prescribed fires, investing billions in recent years to fund forest restoration work.[17]

Prescribed fire reduces wildfire risks

Prescribed fire is a proven tool for reducing wildfire risk, which is urgently needed to address the growing wildfire crisis in western forests. Perhaps the best demonstration of this was Oregon's Bootleg Fire in 2021. That July, lightning set fire to the Fremont-Winema National Forest, a fire which quickly spread toward The Nature Conservancy's Sycan Marsh Preserve.[18] As Katie Sauerbrey, a fire manager for The Nature Conservancy, watched the fire's 200-foot high flames move toward the Preserve, "the most extreme fire behavior [she] had ever seen in [her] career," she felt like there was nothing the Conservancy could do. [19] But, then, something miraculous happened. As the fire entered the Preserve, it dramatically reduced in intensity.[20]

The reason: The Nature Conservancy had for years worked to restore the Preserve's forest.[21] First, the group mechanically thinned the overgrown forest, removing ladder fuels that encourage destructive crown fires. Then, it used prescribed fire to maintain the forest and control ground-level fuels. As a result of these efforts, the Preserve had less fuel than surrounding forests and was more resilient to the effects of fire. An aerial photo of the Bootleg Fire's aftermath (below) provides some of the most compelling evidence of prescribed fire's benefits.

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[16] *See, e.g.,* The Nature Conservancy, *Why We Work With Fire* (2025), https://www.nature.org/en-us/what-we-do/our-priorities/protect-water-and-land/land-and-water-stories/why-we-work-with-fire/; Rocky Mountain Elk Found., *Wildfire Restoration Helps Wildlife and Landscapes* (last visited Sept. 5, 2025), https://www.rmef.org/how-we-conserve/wildfire/.
[17] *See* GAO, Wildfire Smoke: Opportunities to Strengthen Federal Efforts to Manage Growing Risks (2023), https://www. gao.gov/assets/gao-23-104723.pdf.
[18] *See* Henry Fountain, *This Vast Wildfire Lab Is Helping Foresters Prepare for a Hotter Planet*, N.Y. Times (Jan. 5, 2022), https://www.nytimes.com/2022/01/05/climate/fire-forest-management-bootleg-oregon.html.
[19] *See id.*
[20] *See id.*
[21] *See id.*

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This anecdote is no outlier. A recent study by one of my colleagues and several co-authors found that wildfires on lands recently treated with mechanical thinning and prescribed fire had a 32% lower average fire severity.[22] The prevalence of high-severity wildfires in areas that received these treatments was reduced by 88%.[23] And these effects were greatest in areas where treatment was done at a larger scale.[24] The effect on high-severity wildfires is especially noteworthy because such fires have increased 15-fold since 1985 and cause the most significant damage to forest ecosystems.[25]

Prescribed fire improves air and water quality

Catastrophic wildfires are one of the greatest threats to air and water quality. Smoke from these fires is the largest source of particulate matter pollution, which has been linked to increased risk of death from

[22] *See* Ethan Yackulic, et al., *Rising from the ashes: treatments stabilize carbon storage in California's frequent-fire forests*, Front. in Forests & Global Change (2025), https://www.frontiersin.org/journals/forests-and-global-change/articles/10.3389/ffgc.2025.1498430/full.
[23] *See id.*
[24] *See id.*
[25] *See* Sean A. Parks, et al., *Intensifying Fire Season Aridity Portends Ongoing Expansion of Severe Wildfire in Western US Forests*, Global Change Biology (2025), https://pmc.ncbi.nlm.nih.gov/articles/PMC12365577/pdf/GCB-31-e70429.pdf.

cardiovascular and respiratory harms.[26] Every summer, my community is affected by smoke from upwind wildfires, with air quality levels frequently being unhealthy and occasionally reaching hazardous levels.[27] Indeed, as I wrote this testimony, the air quality in Bozeman was bad enough that one could not see the mountains from town through the gray-brown sky. Scorched forests are also prone to substantial erosion, which clogs streams with sediment and other pollutants.[28]

While prescribed fire also produces smoke that can affect air quality, the available evidence suggests that it is less harmful than smoke from catastrophic wildfires. A recent study out of California, for instance, found that wildfires in areas that had previously been managed with prescribed fire produced 14% less particulate matter pollution compared to untreated areas.[29] That study estimates that if one million additional acres were treated with prescribed burns annually, it would reduce PM2.5 pollution by 655,000 tons over the next 5 years.[30] Another recent study found that prescribed fire smoke resulted in community exposure to PM2.5 at lower concentrations than wildfires, reflecting the ability of prescribed burners to control when fire is applied and, therefore, smoke is released.[31] This effect could likely be reduced even further with better public education about prescribed fire. According to one recent study, expanded use of prescribed fire could reduce community exposure to wildfire smoke by 50%.[32] While experts continue to study the differences between wildfire and prescribed-fire smoke, the evidence suggests that prescribed fire is an effective tool to improve air quality long term.

Additionally, a recent study suggests that prescribed fire and other active restoration efforts improve forests' ability to sequester carbon. After a wildfire, treated areas resumed operating as carbon sinks while previously untreated areas stagnated or declined.[33] Within 7 years, nearly 75% of treated forests

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[26] *See* Envt. Prot. Agency, *Why Wildfire Smoke is a Health Concern* (last visited Sept. 5, 2025), https://www.epa.gov/wildfire-smoke-course/why-wildfire-smoke-health-concern.

[27] *See* AirNow, *Air Quality Index (AQI) Basics* (last visited Sept. 7, 2025), https://www.airnow.gov/aqi/aqi-basics/.

[28] *See Fix America's Forests*, *supra* n.2 at 8, 10.

[29] *See* Makota Kelp, et al., *Effect of Recent Prescribed Burning and Land Management on Wildfire Burn Severity and Smoke Emissions in the Western United States*, AGU Advances (2025), https://agupubs.onlinelibrary.wiley.com/doi/10.1029/ 2025AV001682.

[30] *See id.*

[31] *See* Rosenberg, et al., *Health Impacts of Future Prescribed Fire Smoke: Considerations From an Exposure Scenario in California*, Earth's Future (2024), https://agupubs.onlinelibrary.wiley.com/doi/10.1029/2023EF003778. *See also* Don Schweizer, et al., *Assessing relative differences in smoke exposure from prescribed, managed, and full suppression wildland fire*, Air Quality, Atmosphere, & Health (2018), https://link.springer.com/article/10.1007/s11869-018-0633-x.

[32] *See* Makota M. Kelp, et al., *Prescribed Burns as a Tool to Mitigate Future Wildfire Smoke Exposure: Lessons for States and Rural Environmental Justice Communities*, Earth's Future (2023), https://agupubs.onlinelibrary.wiley.com/doi/full/10.1029/2022EF003468.

[33] *See* Yackulic, et al., *supra* n. 21.

had replaced any carbon lost during the treatment.[34] Wildfires, by contrast, are one of the largest sources of carbon emissions.

Prescribed fire benefits native wildlife and their habitats

Finally, because many forest and grassland ecosystems are fire-adapted, native plants and wildlife benefit from restoring fire to these ecosystems through the use of prescribed fire. According to the Audubon Society, for instance, many American bird species can continue to use habitats that have experienced low-intensity burns and often benefit from such burns.[35] But catastrophic megafires cause species like the California spotted owl to entirely abandon charred habitats.[36] In many ecosystems, periodic, low-intensity fires are also necessary to prevent encroachment by invasive plants and to maintain habitat for native species.[37] Therefore, according to The Wildlife Society, prescribed fire "is an important resource management tool that can be effective at maintaining or enhancing habitats for many species of wildlife" and "the benefits of prescribed fire far outweigh negative effects."[38]

The Clean Air Act unintentionally discourages prescribed fire by treating prescribed fire smoke differently from wildfire smoke

Under the Clean Air Act, EPA sets air quality standards for regulated pollutants. States, generally, are then responsible for developing and implementing plans to meet these standards. To avoid penalizing states for pollution outside their control, especially natural causes, Congress amended the CAA in 2005 to allow monitoring data influenced by an "exceptional event" to be excluded from compliance analysis.[39] Under current law, an exceptional event must (1) affect air quality; (2) be not reasonably controllable or preventable; (3) be a natural event or caused by human activity that is unlikely to recur; and (4) determined by the Secretary to be excludable under EPA regulations.[40]

This provision is frequently applied to exclude the effects of wildfire smoke from CAA compliance.[41] From 2016 to 2023, EPA excluded monitoring data affected by wildfires 139 times, according to a

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[34] *See id.*
[35] *See* Deborah Petersen, *Recent 'Megafires' Imperil Even Fire-Loving Forest Birds*, Audubon.org (2020), https://www.audubon.org/news/recent-megafires-imperil-even-fire-loving-forest-birds.
[36] *See id.*
[37] *See* The Wildlife Society, *Effects of Prescribed Fire on Wildlife and Wildlife Habitat in Selected Ecosystems of North America* (2016), https://wildlife.org/wp-content/uploads/2014/05/TechManual16-01FINAL.pdf.
[38] *See id.*
[39] 42 U.S.C. § 7619(b).
[40] *Id.*
[41] *See Fix America's Forests*, *supra* n.2 at 30.

report from *The Guardian*.[42] And wildfires neatly fit within the exceptional event provision's terms, as a natural event that cannot reasonably be prevented. Prescribed fire smoke, however, counts against state compliance with the CAA, because it is done intentionally, can be prevented, and, to maximize its benefits, must be repeated periodically.[43] This disparate treatment gets the incentives backwards, effectively ignoring the largest source of certain air pollutants while penalizing a conservation practice that improves air quality on net.

The EPA has long recognized this problem and attempted to fix it. In 2007, it issued an exceptional events rule that included a section on prescribed fire.[44] That rule awkwardly shoehorned prescribed fire into the exceptional event provision's constraints. EPA amended the rule in 2016 and issued guidance with the aim of allowing prescribed fire to qualify as exceptional events.[45] And it issued additional guidance in 2024.[46] Because of the awkward fit between prescribed fire and the text of the exceptional events provision, the rule and guidance impose complicated requirements on states, which they have noted is a serious obstacle to their use of the rule to facilitate prescribed burning.[47] Costly and time-consuming regulatory burdens for states that use or allow the use of prescribed fire discourage the tool at the very time that we need to ramp up its use. According to the GAO, "state and local agencies may not use the provision because exceptional event demonstrations are technically complicated and resource intensive."[48]

A recent study aptly diagnosed the effects of this rule: under it, "prescribed fire can qualify as an exceptional event in theory, but in practice, the rule has created barriers to prescribed fire use."[49] Between 2016 and 2023, "no Tribe, state, or local agency had successfully used an exceptional events demonstration for prescribed fire[.]"[50] In 2024, the EPA approved one exceptional event

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[42] *See What is the exceptional events rule? The loophole letting US regulators wipe air pollution from the record*, CapRadio (Oct. 16, 2023), https://www.capradio.org/articles/2023/10/16/what-is-the-exceptional-events-rule-the-loophole-letting-us-regulators-wipe-air-pollution-from-the-record/.
[43] *See Fix America's Forests*, *supra* n.2 at 30.
[44] *See* EPA, 72 Fed. Reg. 13,560 (Mar. 22, 2007).
[45] *See* EPA, *The Final 2016 Exceptional Events Rule, Supporting Guidance Documents, Updated FAQs, and Other Rule Implementation Resources* (last visited Sept. 6, 2025), https://www.epa.gov/air-quality-analysis/final-2016-exceptional-events-rule-supporting-guidance-documents-updated-faqs#final.
[46] *See* EPA, *Treatment of Air Quality Monitoring Data Influenced by Exceptional Events* (last visited Sept. 6, 2025), https:// www.epa.gov/air-quality-analysis/treatment-air-quality-monitoring-data-influenced-exceptional-events.
[47] *See, e.g.,* Letter from Nat'l Ass'n of State Foresters to Joseph Goffman, Principal Dep. Ass't. Admin., EPA (Aug. 5, 2024), https://www.stateforesters.org/wp-content/uploads/2024/08/NASF-EPA-Exceptional-Events-Capacity_FINAL8.5.24.pdf.
[48] *See* GAO, *supra* n.12 at 74.
[49] Sara A. Clark, et al., *Realignment of federal environmental policies to recognize fire's role*, Fire Ecology (2024), https://fireecology.springeropen.com/articles/10.1186/s42408-024-00301-y.
[50] *See id.* at 8.

demonstration for a prescribed fire.[51] But this likely doesn't foreshadow a substantial increase in the use of the exceptional event rule for prescribed fire, because it required a unique and likely unsustainable degree of investment from both the state air regulator and EPA.[52] Indeed, EPA itself has recently announced that it will once again try to improve the rule to make it workable for prescribed fire.[53] As Senator Padilla and many of his colleagues in the California delegation recently explained, "this process is unworkable for the scale of prescribed fire that will be necessary to protect our communities from increasingly catastrophic wildfires."[54]

While some have called to fix the disparate treatment between wildfire and prescribed fire smoke by disqualifying wildfires from the exceptional event provision,[55] that would be impractical. There is little that state air regulators can do to solve the wildfire crisis, which does not suffer from a lack of motivation by policymakers or landowners/managers. Instead, there is broad agreement, including from the EPA, that the exceptional event process must be made practical for prescribed fire.[56]

The Wildfire Emissions Prevention Act would provide a narrowly tailored solution to this problem, without interfering with the Clean Air Act's effectiveness

Senator Curtis' Wildfire Emissions Prevention Act would fix the Clean Air Act's disparate treatment of wildfire and prescribed fire smoke by giving EPA and states greater flexibility to exclude monitoring data influenced by prescribed fire from state compliance. Importantly, it would do what the EPA can't: set up a process that makes sense for prescribed fire rather than trying to shoehorn prescribed fire into a process that was intended for natural and uncontrollable events.

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[51] *See* EPA, *Exceptional Events Documents Particulate Matter - Nevada County, CA* (last visited Sept. 6, 2025), https://www. epa.gov/air-quality-analysis/exceptional-events-documents-particulate-matter-nevada-county-ca.
[52] *See* Clark, et al., *supra* n. 44.
[53] *See* EPA, *Administrator Zeldin Takes Action to Decrease Risk of Future Catastrophic Wildfires ("Exceptional Events")* (last visited Sept. 6, 2025), https://www.epa.gov/newsreleases/administrator-zeldin-takes-action-decrease-risk-future-catastrophic-wildfires.
[54] *See* Letter from Sen. Padilla, et al., to EPA Administrator Regan (June 13, 2023), https://costa.house.gov/sites/evo-subsites/costa.house.gov/files/evo-media-document/ac04e9c6b178703ac42203e974625b51.letter-to-epa-re-pm2.5-rule-limiting-prescribed-fire-opportunities1.pdf.
[55] *See, e.g.,* Clean Air Scientific Advisory Committee, *CASAC Review of the EPA's Policy Assessment for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter (External Review Draft – October 2021)* 12 (2022), https://www.4cleanair.org/wp-content/uploads/PM-NAAQS-CASAC-Responses-to-EPA-PM-Draft-PA-031822.pdf; Molly Peterson & Dillon Bergin, *As US wildfires pollute the skies, a loophole is obscuring the impact. Can it be fixed?*, The Guardian (Oct. 18, 2023), https://www.theguardian.com/us-news/2023/oct/18/climate-change-wildfire-smoke-pollution- public-health-solutions.
[56] *See, e.g.,* Western Governors Assoc., *Policy Resolution 2025-02 Air Quality Protection and Management* (2025), https://westgov.org/images/files/WGA-PR-2025-02-Air-Quality_1.pdf.

WEPA would expand the exceptional event provision to include an event that (1) is not reasonably controllable or preventable, *unless the purpose is to prevent more severe emissions*; (2) is a natural event or caused by human activity that is unlikely to recur, *unless intended to mirror the occurrence of a natural event or the event is an action that mitigates wildfire risk*; and (3) is determined by the state to qualify as an exceptional event and the EPA, pursuant to regulations established by it, does not overrule that determination. WEPA explicitly recognizes prescribed fire as an action that mitigates wildfire risk under this provision.This amended language would greatly simplify the process for EPA and states to recognize prescribed fire's beneficial effects and avoid penalizing it under the CAA.

We have seen how additionally flexibility through technical policy fixes can meaningfully increase opportunities to use prescribed fire. In 2008, for instance, California modified the criteria it uses to determine burn days in the Tahoe Basin, allowing for greater consideration of the atmosphere's ability to absorb smoke. That small, technical change, according to a 2020 study, caused "an abrupt increase in CARB burn day frequency[.]"[57] Giving EPA and states similar flexibility to increase the use of prescribed fire under the CAA could have similar salutary effects.

While there may be an understandable reluctance to amend a major environmental law like the CAA, such amendment is appropriate here. WEPA offers a narrowly tailored solution to a widely recognized problem that threatens air quality and many other environmental values. And, importantly, it does not constrain EPA's regulatory authority, does not narrow the pollutants covered by the CAA, and does not weaken any substantive environmental standard.

Conclusion

Prescribed fire is a proven conservation tool to restore forest ecosystems, improve air and water quality, maintain habitat for native plants and wildlife, and protect communities from the wildfire crisis. The CAA unintentionally discourages prescribed fire, by counting smoke from it against state compliance with air quality standards while allowing wildfire smoke to be excluded. WEPA would finally fix this problem, by giving EPA and states much needed flexibility to protect air quality by ramping up prescribed fire.

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[57] Randy Striplin et al., *Retrospective Analysis of Burn Windows for Fire and Fuels Management: An Example From the Lake Tahoe Basin, California, USA*, 16 Fire Ecology 13 (2020), https://fireecology.springeropen.com/articles/10.1186/s42408-020-00071-3.