

Commissioner of Agriculture Burn Ban Law & Procedures

8/18/2020

1. Authority

§ 39-14-306. Fires; burning permits; burning bans [Setting fires at certain times without permit.]

(a)(1) It is unlawful for any person to start an open-air fire between October 15 and May 15, inclusive, within five hundred feet (500') of any forest, grasslands or woodlands without first securing a permit from the State Forester or the State Forester's duly authorized representative. Depending upon the potential for hazardous burning conditions, the State Forester may prescribe a period other than October 15 to May 15 within which a permit must be obtained prior to starting an open-air fire.

(2) A violation of this subsection (a) is a Class C misdemeanor.

(b)(1) In extreme fire hazard conditions, the Commissioner of Agriculture in consultation with the State Forester and the county mayors of impacted counties, may issue a burning ban prohibiting all open air fire in any area of the state.

(2) A violation of this subsection (b) is reckless burning and punishable as a Class A misdemeanor as provided in § 39-14-304.

(c) This section shall not apply to fires that may be set within the corporate limits of any incorporated town or city which has passed ordinances controlling the setting of fires. [Acts 1989, ch 591, §1; 1991, ch. 46, § 2; 1999, ch. 209, §1; 2008, ch. 786, § 2.]

2. Terminology

Area of the state - a county or multiple counties, separate or adjoining, in any location within Tennessee. Burn bans are determined on a county by county basis.

Confined fire - an outdoor fire, consisting of any flammable material, which growth or spread is limited by being in a pit; or, having a ring of stones or a substantial wall around it; or, being in a grill, fireplace or oven; or, being in a developed campground; or, a metal barrel with 1/4" mesh screen on top; or, flammable material over 500' radius from the edge of the fire.

County mayors of impacted counties - the county mayor or county executive of counties experiencing extreme fire hazard conditions.



Extreme fire hazard conditions - when factors including weather (wind speed, humidity, temperature, precipitation), or climate (drought), or fire danger, have reached levels in a county such that fire occurrence, or fire behavior, or fire containment, or resource availability, are determined by the State Forester to warrant a ban on open air burning.

Open air fire - any fire that is burning in the outdoors, including confined fires. Open air fire is not to be confused with "Open Burning" as defined by the Division of Air Pollution Control as "the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack."

Reckless burning (T.C.A. 39-14-304) - a person who recklessly starts a fire on the land, building, structure or personal property of another; or starts a fire on such person's own land, building, structure or personal property and recklessly allows the fire to escape and burn the property of another.

3. Examples of Prohibited Fires

- leaves, brush
- fence rows, ditch banks
- construction debris, boards, plywood, decking, cardboard, etc.
- fields, grassland
- gardens
- wooded areas
- campfires, cooking fires
- grills, charcoal or wood fired (but not natural or propane gas fired)
- burn barrels
- household waste
- air curtain destructors

4. Examples of Burn Ban Indicators

Weather - wind and relative humidity conditions reach Fire Weather Watch or Red Flag Warning levels as established in the National Weather Service Operating Plan for the county or counties impacted.

Climate - U.S. Drought Monitor at D2 or higher; or Short Term Drought Indicator at D2 or higher; or Crop Moisture Index at (-)2.0 or lower; or Drought Impact Reporter at 15 or more for Tennessee; or an application for Drought Disaster assistance has been submitted.

Fire danger - Keach-Byrum Drought Index (550+); or National Fire Danger Rating System Fire Danger Level is Extreme; or Preparedness Level is 5; or Southern Area Predictive Services Area (SAPSA) Days Since Significant Rain Value Nearing "High Average" or worse; or SAPSA 10 hr fuel moisture < 10%, or 100 hr fuel moisture < 13%, or 1000 hr fuel moisture < 16%; or SAPSA Energy Release Component Value above 40.

Fire occurrence – average daily occurrence of ≥ 3 wildfires in a county within a 30 day period; average daily occurrence of ≥ 21 wildfires within a Tennessee Division of Forester District; average daily occurrence of ≥ 56 wildfires statewide; a Federal Emergency Management Agency wildfire disaster grant has been requested.

Fire behavior - fires start easily and spread rapidly in both grassland and woodland fuels, intensity increases quickly; behavior is erratic; both suppression and mop-up require an extended and thorough effort.

Resource availability - shortage of local firefighters to respond to new wildfires or manage active wildfires.

5. Procedures

Initiation – A County Mayor/Executive will formally request a ban on Open-Air burning in consultation with the representative District Forester and utilization of the “Request for Declaration of Ban on Open Air Burning” from the Department of Agriculture, Division of Forestry.

Standard - A County Mayor/Executive or District Forester recognizes extreme fire hazard conditions exist and the need for a ban on open-air fires; that official contacts the counterpart in the other agency (the counterpart to District Forester is the County Mayor/Executive); a mutual agreement for or against a burn ban is made; if the decision is to request a ban on open-air burning a signed *Request for Declaration of Ban on Open Air Burning* form is sent to the State Forester’s Office for concurrence.

Exception – The State Forester recognizes extreme fire hazard conditions exist and notifies the affected District Forester(s) who contacts the appropriate County Mayor/Executive(s).

Documentation of Request - the County Mayor/Executive then convey a signed *Request for Declaration of Ban on Open Air Burning* to the State Forester’s office. Upon concurrence the State Forester will forward the request to the Commissioner of Agriculture for approval. After the request is approved a *Declaration of Ban on Open Air Burning* is signed by the Commissioner. The State Forester will convey the signed *Declaration of Ban on Open Air Burning* to the County Mayor/Executive and the District Forester.

Cancellation - Lifting the ban on open air burning will be done by mutual agreement between the County Mayor/Executive and District Forester. Either official may initiate the procedure to remove the outdoor burning ban. The Commissioner will rescind the *Declaration of Ban on Open Air Burning* with his signature. The document will then be conveyed to the County Mayor/Executive and District Forester.

6. Enforcement

The County Mayor/Executive will notify local law enforcement officers, and the Commissioner of Agriculture will notify the Department of Agriculture Crime Unit to make them aware of the ban on open air burning. Law enforcement will issue citations upon discovery of violators. The County Mayor/Executive and District Forester will be informed when citations have been issued.

Upon cancellation of the ban on open air burning the County Mayor/Executive and Commissioner of Agriculture will notify their respective law enforcement agencies.



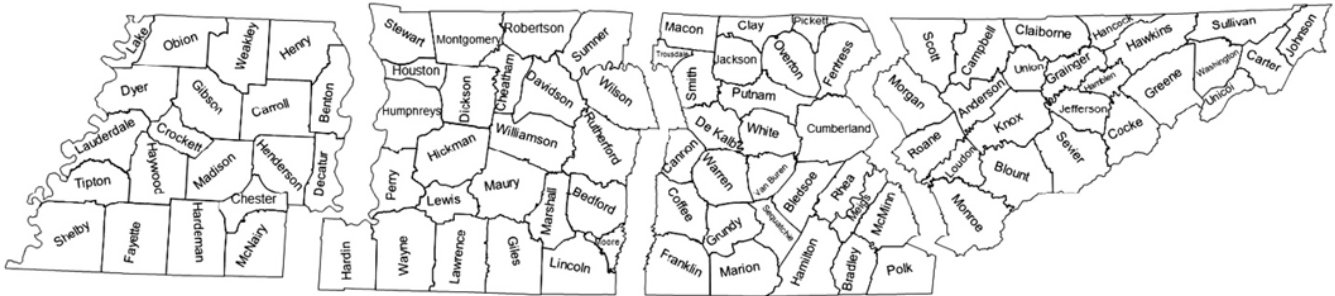
7. District Forester Contacts and Jurisdiction

West Tennessee District

Highland Rim District

Cumberland District

East Tennessee District



Zone	District Forester	Nashville HQ
West Tennessee District	<u>Richard Sanderson</u> Office: 731-967-6608 Richard.Sanderson@tn.gov	<u>David Arnold-State Forester</u> Office: 615-837-5435 David.Arnold@tn.gov
Highland Rim District	<u>Jeffrey Piatt</u> Office: 615-797-3117 Jeffrey.Piatt@tn.gov	
Cumberland District	<u>Andy McBride</u> Office: 931-526-9502 Andy.Mcbride@tn.gov	
East Tennessee District	<u>Darren Bailey</u> Office: 865-594-6432 Darren.Bailey@tn.gov	