

September 18, 2019

Dear Tennessee Wildland Fire Partner,

The Tennessee Department of Agriculture Division of Forestry is keeping a close eye on weather conditions as our state experiences a prolonged hot and dry pattern. Fortunately, we have not seen an increase in the number of wildfires over the past few weeks. Fire danger indices that we routinely monitor remain in low to moderate status.

While these metrics are positive, we certainly recognize municipal and county concerns with the weather and appreciate the cooperation with managing expectations of our residents and visitors in wildfire prevention. We also recognize local governments are responding to these conditions, and we want to support them as best we can. As such, in addition to continued monitoring and initial attack as needed, we want to make you aware of our short-term strategy as we prepare to enter our usual fall fire season. Elements of this strategy include:

1. Increased fire prevention messaging
2. Early launch of our Safe Debris Burn Permitting system beginning Monday, September 23
3. Providing county governments with tools we have available with assisting them; including instructions for implementing a Commissioner of Agriculture Burn Ban (typically implemented on a county level)

Fire Prevention Messaging

Broadcast news outlets are already well aware of municipal burn restrictions and are actively connecting weather forecasts with fire danger. Our agency is reminding citizens to use precaution and good sense when burning outdoors where it is allowed. We encourage our partners to direct citizens to BurnSafeTN.org for safe debris burning tips and fire weather information links. We also have targeted print, radio, TV and online messaging prepared for fall fire season that promotes safe debris burning and encourages homeowners to protect their homes through the Firewise USA program. We are also actively working with communities within the Fire Adapted Communities program to build partnerships that inform and prepare residents to collaboratively plan and take action to safely co-exist with wildland fire.

Early Launch of State Burn Permitting

While current fire danger indices remain low to moderate, this hot and dry weather pattern has potential to create more volatile conditions as we enter fall fire season when our hardwood forests shed their leaves and create a heavier fuel load on the ground. In an effort to get ahead of this threat, I am utilizing Tennessee Wildfire Law 39-14-306 to prescribe a period outside of our typical requirement for setting open air fires without a permit. **Beginning Monday, September 23, 2019, a burn permit will be required to start an open air fire within five hundred feet (500') of any forest, grassland or woodland.** Permits, if issued on any given day, will be available by phone or online at BurnSafeTN.org.

Safe Debris Burn Permits have proven to be an effective tool at making residents aware of when, where, and how it is safe to conduct a debris burn. If conditions are not conducive for safe debris burning, we will not issue permits. It is important to note that this action does *not* equate to a burn ban. Burning without a permit is a *burn restriction* that has legal ramifications – specifically, a violation is a Class C misdemeanor, punishable by up to a 30 day sentence and/or \$50 fine.

County Government Tools

Wildland fire prevention is our number one tool for public safety. Preventing fires best protects our fire fighters, citizens and visitors, and structures. Cooperation of this effort is key, and our staff is available to provide counties with prevention messages and materials at any time.

As mentioned above, burn permits are also very effective at raising awareness of when, where, and how it is safe to conduct a debris burn. Still, escaped debris burns are a leading cause of wildland fire in Tennessee.

When fire danger escalates and we start to see wildland fires start by means other than debris fires and become more difficult to control, our next tool is to implement *burn bans*. Our **Commissioner of Agriculture has the authority to issue a burn ban**, in consultation with the State Forester and the county mayors of impacted counties, prohibiting all open air fire in any area of the state. Violation of a burn ban carries tougher penalties than violation of a burn restriction. A violation of a burn ban is considered a class A misdemeanor, punishable by up to 11 months 29 days and/or \$2500 fine. It is important to note that a Commissioner of Agriculture Burn Ban is reserved for extreme fire conditions and carries significant impact, as multiple types of fires become prohibited, including campfires and charcoal grills.

The Commissioner of Agriculture Burn Ban Law & Procedures document is attached for your convenience and reference. County mayors should [contact your District Forester](#) for further consultation.

A Governor's Burn Ban is our final fire prevention restrictive tool and is reserved for the most extreme and widespread fire danger. The governor is authorized to issue proclamations forbidding the starting of any open air and unconfined fire on or near woodlands where dangerous fire hazards exist during the period of extreme drought, either across the state or in any affected area. Penalties for a Governor's Burn Ban are the same as for a Commissioner of Agriculture Burn Ban.

Summary

The Tennessee Division of Forestry greatly appreciates your partnership with regards to fire prevention and suppression. Safety of the public and our fire fighters is our #1 goal. We will continue to closely monitor fire danger as we approach our annual fire season and are confident that this strategy, employed through your cooperation, will help keep our residents safe and aware of any wildland fire threats.

Sincerely,



David Arnold
State Forester/Assistant Commissioner

Commissioner of Agriculture Burn Ban Law & Procedures

9/17/2019

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 (including ceremonial, cooking and warming fires) 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 Fires Prohibited During a Burn Ban

- 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. Indicators that May Lead to a Burn Ban

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* form 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 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 conveys 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 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.