

NOTIFICATION REQUIREMENTS AND CONSIDERATIONS FOR SAFE AND LAWFUL PRESCRIBED BURNING IN OKLAHOMA

*Guidelines, State Law and the
Burning Notification Plan*



Oklahoma Department of Agriculture
Forestry Services

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Oklahoma Department of Agriculture – Forestry Services
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Prescribed burning is an effective land management tool that can help landowners accomplish a variety of objectives. But there are also risks and liabilities associated with burning so it must be used with appropriate caution. Landowners and managers must understand their responsibilities under Oklahoma law and how to plan and conduct a burn safely. By following some basic guidelines and exercising caution and common sense, your burns will be safe and effective, your neighbors and the public will be protected and prescribed burning will remain a viable management tool in Oklahoma.

The information that follows is intended to acquaint you with basic prescribed burning considerations and the law. It does not contain enough detail to enable you to plan and conduct a burn, but presumes you are already experienced, trained or knowledgeable about the use of fire. There are other sources of information, training and technical assistance available that provide details about prescribed burning.

Disclaimer. The Oklahoma Department of Agriculture provides this information as a public service and is in no way liable for the actions of those who undertake prescribed burning activities. Landowners must become experienced and knowledgeable about the use of prescribed fire before actually planning and conducting a burn themselves.

Controlled Fire or Wildfire. There is a big difference between a prescribed burn and a wildfire. Prescribed burns are conducted on a designated area under specific conditions for a defined objective, and are extinguished. A wildfire is a fire that is out of control. A “safe burn” is measured by your ability to successfully plan, organize and conduct a burn on a defined area to accomplish specific objectives, while safeguarding the burning crew, your equipment, your neighbors and the public at large. “Safe burns” are no accident.

Liability. *You are responsible for your fire.* Title 2, Sections 16-28 and 16-28.2 of the Oklahoma Forestry Code provide some liability protection for landowners conducting prescribed burns under certain conditions (see next pages). To obtain this protection however, the owner or manager is responsible for planning the burn, providing proper notification to neighbors and local authorities, conducting the burn according to the plan, providing adequate equipment and manpower to control the fire and confine it to his or her property and preventing downwind impacts. In terms of liability, the law distinguishes between fires that escape by accident and those that escape due to negligence.

Safety Considerations. *Your responsibilities related to safety are:* (1) **Identify sensitive places** around and downwind of the area you plan to burn and manage your smoke to avoid causing problems downwind from the burn. Errant smoke can impact your neighbors and local communities, close airports or roadways and create significant safety hazards. (2) **Provide personal protective gear** for your crew and communicate with them effectively before and during the fire to ensure their safety. (3) **Use an appropriate firing technique** to minimize risk. (4) **Provide an adequate amount of equipment** in good working order to manage the fire and handle emergencies.

Plan the Burn. *Your responsibility is to take the time necessary to thoughtfully plan your burn well in advance of the actual burn date.* The first step in burning is to identify the area to be burned and your objective for burning it. Other key factors you must consider include fuel type and amount (loading), proximity to roads, houses and communities, topography, size of burn and natural barriers. All other considerations in your plan – firing technique, equipment and crew needs, control lines, desired weather conditions, season, safety considerations – will depend upon these key factors.

Notification Requirements. *Your responsibility is to notify your neighbors and local authorities before conducting a burn.* For your burn to be lawful, State law requires all burners to: notify all adjoining landowners within 60 days of the burn; provide a Prescribed Burning Notification Plan to the local rural fire department; and notify the fire department within 48 hours of actually conducting the burn. Inside the designated Forest Protection Area (see map), you must also provide a copy of the Notification Plan to the nearest Forestry Division office and notify them at least 4 hours before setting the fire.

Control Lines. *Your responsibility is to keep your planned fire to a defined area by using roads, natural features and firelines.* Control lines must be wide enough, frequent enough and located properly to enable you to keep your fire within the planned area. For most burning, a basic fireline consists of a strip of mineral soil 6 to 8 feet wide. As the fuel load becomes heavier and more volatile, or when you use more aggressive firing techniques, you will need more frequent and wider firelines to maintain control.

Weather Considerations. *Your responsibility is to understand the most important weather factors that will affect your burn and the conditions under which your burn can be conducted safely.* Knowledge of weather is the key to successful prescribed burning and is required for proper management of smoke produced by your fire. Major weather factors include wind, relative humidity, rainfall and soil moisture, fuel moisture and atmospheric stability. Use Mesonet data, obtain an accurate fire weather forecast from the National Weather Service and use a weather kit to monitor local conditions.

Equipment/Crew Needs. *Your responsibility is to provide an adequate amount of people and equipment to maintain control of the fire once it is set.* This might include a pumper with at least 100 gallons of water and 50 feet of hose, drip torches, hand tools, radio communication and heavy equipment for fire suppression if needed.

Some General Burning Rules. *As the burn date approaches, your responsibilities are:*

- Check the burn unit several days in advance, including all control lines and structures.
- Obtain a weather forecast that includes, at a minimum, predicted wind speed and direction, temperature, relative humidity, time of next major wind shift and stability of the atmosphere.
- Notify all neighboring landowners, the rural fire department and the Forestry Division if needed.
- Have equipment available and operational.
- Make sure all personnel know their duties and how the burn will be conducted.
- Stay within fire prescriptions that were developed to meet your objectives.
- ***Burning under one or more of the following Red Flag Conditions is discouraged:*** highly variable winds or gusts greater than 20 mph, relative humidity below 20%, air temperature above 100 degrees F, or wind shift or frontal passage expected within 12 hours.

Information Resources. Circular E-927 “Using Prescribed Fire in Oklahoma” by the Cooperative Extension Service is an excellent reference on the use of fire in Oklahoma. It is available at cost from the OSU Cooperative Extension Service. Information is also available from local offices of the Natural Resource Conservation Service.

Oklahoma Laws Pertaining to Burning

The following laws are excerpted from Title 2 of the Oklahoma Statutes (The Oklahoma Forestry Code), as amended by the Legislature in 2001. These sections govern the lawful and unlawful use of fire in Oklahoma. Sections 16-28 and 16-28.2 define procedures for lawfully using prescribed fires that afford some reduction in criminal liability should your fire escape (amendments are expected in 2002).

SECTION 16-24.1 (Lawful Burning)

- A. It is lawful for an owner of croplands, rangelands or forestlands to set the croplands, rangelands or forestlands on fire for the purposes of: (1) Managing and manipulating plant species present whether grass, weeds, brush or trees; and (2) Destroying detrimental or unwanted plants, plant parts, shrubs or trees on croplands, rangelands or forestlands.
- B. The provisions of this section shall not be construed to exempt or release a person from civil liability for damages or injury incurred as a result of the burn or for criminal liability as imposed pursuant to the Oklahoma Forestry Code.

SECTION 16-25. (Unlawful Burning)

- A. It is unlawful for any person to carelessly or willfully burn or cause to be burned or to set fire to or cause any fire to be set to any forest, grass, crops, or woodlands not owned by, duly authorized by the owner or manager, or in the lawful possession of, the person setting the fire or burning the lands or causing the fire to be burned.
- B. Any person who carelessly violates this section is guilty of a misdemeanor punishable by a fine of not more than \$500, by imprisonment for not more than one year, or both. Any person who willfully violates this section is guilty of a felony punishable by a fine of not more than \$1,000, by imprisonment for not more than three years, or both.
- C. Any person who carelessly or willfully burns, causes to be burned, sets fire, or causes to be set, any forest, grass, croplands, or woodlands not owned by, duly authorized by the owner or manager, or in lawful possession of, shall be liable in a civil action to any person injured or damaged by a fire to the amount of the injury or damages.

SECTION 16-28. (Procedure to Lawfully Burn Land)

- A. It is unlawful for any person either willfully or carelessly to burn, cause to be burned, to set fire to, or cause fire to be set to any forest, grass, croplands, rangeland, woods, wild lands, or marshes by an owner of such property, except under the following circumstances:
 - (1) In protection areas, notification to burn shall be made by the owner to the local office or local representative of the Forestry Division at least four hours in advance and verbal or written approval obtained. In addition to the notification requirements of this paragraph, any owner conducting a prescribed burn in a protected area shall comply with the provisions of Section 16-28.2;
 - (2) Outside protection areas, in order for prescribed or controlled burning to be lawful, an owner shall take reasonable precaution against the spreading of fire to other lands by providing adequate firelines, manpower, and fire fighting equipment for the control of the fire, shall watch over the fire until it is extinguished and shall not permit fire to escape to adjoining land; or
 - (3) Any owner wishing to conduct a prescribed burn outside protection areas shall comply with the provisions of Section 16-28.2.
- B. Nothing in this section shall relieve the person from the obligation to confine the fire to the owner's, agent's or tenant's land.
- C. The Oklahoma Forestry Code shall not apply to trimming or cutting of trees by public or private utilities for the purpose of eliminating interference with utility lines, poles, or other utility equipment.
- D. (1) Except as otherwise provided by Section 16-28.2, any person:
 - (a) who, whether by accident, neglect or intent, causes or allows damage or injury to occur to any ranch, buildings, improvements, hay, grass, crops, fencings, timber, marsh, or other property of another person by any fire described and conducted pursuant to this section, shall be civilly responsible for such damage or injury so caused pursuant to Section 16-30 of this title, and
 - (b) who carelessly violates this section is guilty of a misdemeanor punishable by a fine of not more than \$500, by imprisonment for not more than one year, or both.

(2) In addition, to civil liability, any person who willfully violates this section is guilty of a felony punishable by a fine of not more than \$1,000, by imprisonment for not more than three years, or by both.
- E. Fire set under the provisions of this section shall not be allowed to spread beyond the control of the person setting the fire and shall be subdued and extinguished.

SECTION 16-28.2. (Prescribed Burning Provisions)

- A. (1) The provisions of this section apply to prescribed burning.
- (2) Any owner wishing to set fire to his or her land in order to conduct a prescribed burning shall comply with the provisions of this section.
- B. Within 60 days prior to conducting a prescribed burn, the owner of land to be burned shall orally or in writing notify all landowners whose lands adjoin the owner's land to be burned. The owner shall include in the written notice or shall orally notify the adjoining landowners of the proposed date and location of the burn and a telephone number where the owner can be reached for information regarding the prescribed burning.
- C. In addition to notification of adjoining property owners pursuant to Subsection B of this section, the owner of the land to be burned shall complete the prescribed burning notification plan specified in subsection D of this section and shall submit such plan to the rural fire department nearest the land to be burned. If the land to be burned is in a protection area, the owner shall also submit a copy of the notification plan to the local office or local representative of the Forestry Division nearest to the land to be burned.
- D. Any person wishing to conduct a prescribed burn shall complete this form, distributed by the State Department of Agriculture, which shall be in substantially the following form:

PRESCRIBED BURNING NOTIFICATION PLAN (The notification plan shall contain the following information):

- Name and Telephone Number
- Mailing Address, County, City, State, and Zip Code
- Ranch Name (if any)
- Description of area to be burned
- Approximate acres to be burned
- Written description of location
- Projected time frame
- Date of previous burn
- Objectives to be accomplished through the prescribed burn
- Contact information
- Rural fire department name, location, and telephone number
- Forestry District office (for protection areas)
- Adjoining landowners

You need to file the original copy of the form with the rural fire department nearest to the land to be burned. If you are conducting a prescribed burn within a protection area, you also need to file a copy of the notification plan with the local office or local representative of the Forestry Division nearest to the land to be burned. A copy of the plan shall be retained by the owner of the land to be burned.

- E. (1) Whether the land is located within or outside a protection area, the owner of land to be burned shall, within 48 hours of conducting a prescribed burn, notify the rural fire department receiving a copy of the prescribed burning notification plan that the prescribed burn will be conducted.
- (2) Within a protection area, the owner of land to be burned shall also, within the time period required by Section 16-28 of Title 2 of the Oklahoma Statutes, notify the local office or local representative of the Forestry Division receiving a copy of the prescribed burning notification plan.
- F. Prescribed burning conducted pursuant to provisions of this section shall:
- (1) Be considered in the public interest and shall not constitute a public or private nuisance; and
- (2) Be considered a property right of the property owner if naturally occurring vegetative fuels are used.
- G. (1) Any owner conducting a prescribed burn who is found by a court of law to have caused damages or injury as a result of accident or by ordinary negligence shall only be civilly liable for actual damages resulting from the prescribed burn.
- (2) Any owner conducting a prescribed burn who is found by a court of law to have committed gross negligence in conducting the prescribed burning may be found to be both civilly liable for the amount of damage done by the fire, and criminally liable pursuant to paragraph 3 of this subsection.
- (3) Any owner setting or causing to be set on fire his or her land, and as a result of gross negligence permitting the fire to spread beyond the control of the owner or beyond the bounds of the owner's land, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined a sum not more than \$500, or imprisonment in the county jail for a period not more than six months.

The prescribed burn described below is to be conducted according to the information provided here and the Oklahoma Forestry Code (Title 2, Sections 16-28 and 16-28.2 of the State Statutes). File the original copy of the Notification Plan with the local rural fire department, and keep a copy for your records. Inside the designated Forest Protection Area in eastern Oklahoma (refer to list of Forestry offices), also provide a copy to the Forestry Division representative.

PRESCRIBED BURNING NOTIFICATION PLAN

Name: _____	Telephone: _____
Address: _____	County: _____
City, State, Zip Code: _____	
Ranch Name (if any): _____	

Description of area to be burned: _____
Approximate acres to be burned: _____
Written description of location: _____

Projected time frame: _____
Date of previous burn: _____
Objectives to be accomplished through the prescribed burn: _____

Contact information: _____		

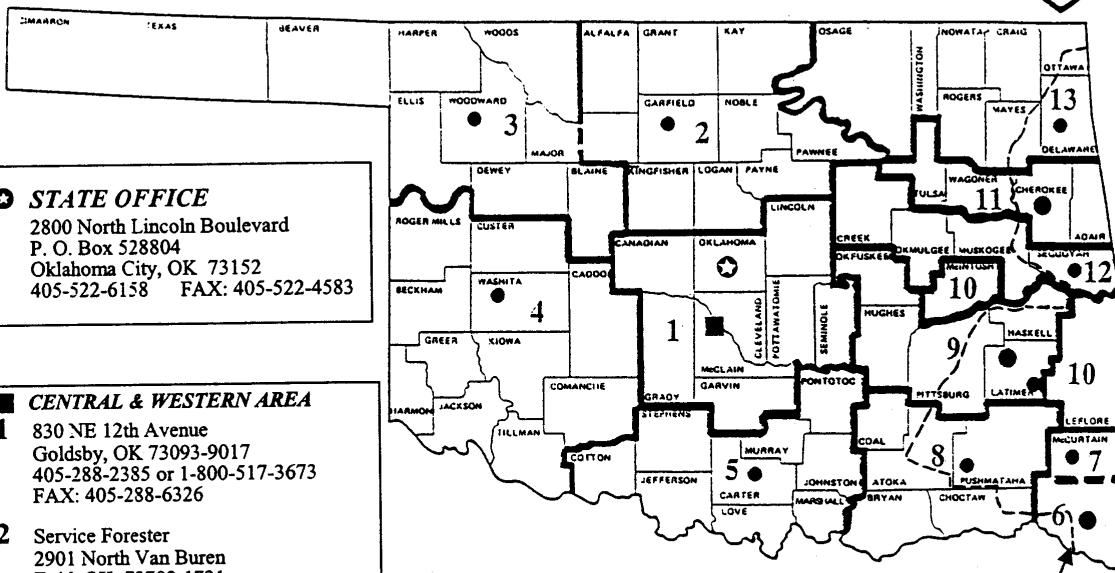
Rural Fire Department Name	Location	Phone No.
_____	_____	_____

Forestry Division Office (for protection areas): _____		

Adjoining landowners: _____		

Oklahoma Department Of Agriculture Forestry Services

◆ Office Locations ◆



◆ **STATE OFFICE**
2800 North Lincoln Boulevard
P. O. Box 528804
Oklahoma City, OK 73152
405-522-6158 FAX: 405-522-4583

■ **CENTRAL & WESTERN AREA**

1 830 NE 12th Avenue
Goldsby, OK 73093-9017
405-288-2385 or 1-800-517-3673
FAX: 405-288-6326

2 Service Forester
2901 North Van Buren
Enid, OK 73703-1731
580-237-4810 FAX: 580-237-8230

3 Service Forester: VACANT
c/o USDA Field Station
2000 18th Street
Woodward, OK 73801-5427
580-254-3213 FAX: 580-256-1322

4 Service Forester
P. O. Box 910
Burns Flat, OK 73624-0910
580-562-4882 X 115 FAX: 562-4880

5 Service Forester
P. O. Box 1844
Ardmore, OK 73402
580-223-3973 FAX: Same

● **EAST CENTRAL AREA**

9 Area Office and Wilburton District
P. O. Box 297
Wilburton, OK 74578-0297
918-465-2082 FAX: 918-465-2005

10 Tahihina District Office
P. O. Box 368
Talihina, OK 74571-0368
918-567-2021

● **NORTHEAST AREA**

11 Area Office and Tahlequah District
22082 South J.F. Davis Lane
Tahlequah, OK 74464-9805
918-456-6139 FAX: 918-456-4155

12 Sallisaw District Office
629 Harriet
Sallisaw, OK 74955-2805
918-775-2587 FAX: 918-775-2666

13 Jay District Office
HCR-63, Box 1470
Jay, OK 74346-9473
918-253-4268 FAX: 918-253-4969

● **SOUTHEAST AREA**

6 Area Office and Broken Bow District
P. O. Box 40
Broken Bow, OK 74728-0040
580-584-3351 FAX: 580-584-3352

7 Battiest District Office
H. C. 72, Box 515
Battiest Route
Broken Bow, OK 74728-9348
580-241-5375

8 Antlers District Office
P. O. Box 339
Antlers, OK 74523-0339
580-298-5122 FAX: 580-298-6324

■ **RURAL FIRE DEFENSE AREA**
830 NE 12th Avenue
Goldsby, OK 73093-9017
405-288-2385 FAX: 405-288-6326

Forest Protection Area Boundary

Oklahoma's Forest Protection Area covers 6.2 million acres and generally lies east of the following boundary: In Ottawa County, at the Jct. of Hwy. 60 and the Arkansas State Line, go west then south along the east shoreline of Grand Lake, Lake Hudson and Fort Gibson Lake, to Jct. with Arkansas River at Muskogee. Go south and east along the river to the Haskell and LeFlore County line; south along county line to Hwy. 9; west along Hwy. 9 to Stigler; then northwest along the Missouri-Pacific railroad to the North Canadian River; then west along the river to Lake Eufaula. Go south along the east shoreline of Lake Eufaula to Hwy. 31; south along Hwy. 31 to the Jct. with Hwy. 69; and south along Hwy. 69 to Atoka. From Atoka, go east along Hwy. 3 to the Pushmataha County line; south along the county line to the Choctaw County line; east along the county line to Kiamichi River / Hugo Lake; south along the east shoreline of Hugo Lake to Hwy. 70; east along Hwy. 70 to Valliant. From Valliant, go northeast along old Hwy. 98 (now a county road) to Little River; southeast along the north shore of Little River to where the section line between Sections 19 and 20, Township 7 South - Range 24 East crosses Little River north of Idabel; south along this section line to the southwest corner of Section 20, Township 7 South - Range 24 East; follow section line one mile east and then south along section lines 12 miles to the Red River.