

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1915

By: Representative Womack

By: Senator D. Wallace

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING OPEN BURNING OF  
VEGETATIVE STORM DEBRIS; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE LAW CONCERNING OPEN BURNING  
OF VEGETATIVE STORM DEBRIS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-4-316 is amended to read as follows:

8-4-316. Purpose – Open burning of vegetative storm debris.

(a) The purpose of this section is to allow a county to seek preauthorization of open burning sites for vegetative storm debris from the Arkansas Department of Environmental Quality to accelerate the cleanup process in the event of a natural disaster.

(a)(b) Unless otherwise prohibited by federal law, ~~open burning may be used by a county governments~~ may conduct open burning to dispose of vegetative storm debris ~~in counties that have been declared disaster areas by a county under § 12-75-108, by the state under § 12-75-107, or federal authorities under federal law authorized to make the declaration~~ under the procedures, requirements, and limitations under this section if the county has:

(1) Been declared a disaster area by:



(A) The county under § 12-75-108;  
(B) The state under § 12-75-107; or  
(C) Federal authorities authorized under federal law to  
make the declaration; or

(2) Otherwise accumulated substantial vegetative storm debris  
and provided written notice to the department of the accumulation.

~~(b)(1) Open burning shall be:~~

~~(A) Limited to no more than four (4) sites per county as designated by the county judge and pre-authorized by the Arkansas Department of Environmental Quality; and~~

~~(B) Reported in writing to the department at least three (3) days before the commencement of any open burning, unless the reporting is waived by the Director of the Arkansas Department of Environmental Quality.~~

~~(2)(A) For an initial or subsequent request for open burning, the department shall consider a maximum of four (4) sites pre-authorized for open burning if the department receives a signed letter from the county judge certifying that the open burning sites pre-authorized under subdivision (b)(1) of this section have not been materially altered since the initial request.~~

~~(B) If the director determines that the scope of the disaster warrants additional open burning sites, then the director may authorize additional open burning sites.~~

~~(3)(A) The open burning shall be performed during daylight hours on Monday through Friday.~~

~~(B) However, open burning shall not occur on a state or federal holiday.~~

~~(4) Open burning shall be completed within one hundred twenty (120) days of designation of the county as a disaster area unless:~~

~~(A)(i) At least ten (10) calendar days before the expiration of the period of time under this subdivision (b)(4), the county judge of the affected disaster area makes a written request to the director for an extension of time.~~

~~(ii) An extension made under subdivision (b)(4)(A)(i) of this section shall include a detailed explanation of the reason for the request for an extension of time to complete the open burning of the vegetative storm debris;~~

~~(B) The director determines that the scope of the disaster warrants an extension; and~~

~~(C) The total amount of time extended does not exceed two hundred forty (240) calendar days from the original designation of the county as a disaster area.~~

~~(5) Open burning shall be conducted in a manner so as not to create a nuisance to surrounding communities or citizenry.~~

~~(6) Adequate firefighting personnel shall be available to respond to an emergency at any designated open burning site.~~

~~(7) Open burning shall not be conducted within:~~

~~(A) Five hundred feet (500') of a residence unless the owner of the residence has given written permission for the open burning; or~~

~~(B) One thousand feet (1,000') of a school.~~

~~(8) Open burning may be conducted if:~~

~~(A) The county is in attainment of all national ambient air quality standards; and~~

~~(B) A burn ban is not in effect for the county.~~

~~(c) The director may require that:~~

~~(1) A designated open burning site be relocated; and~~

~~(2) Any or all open burning allowed under this section be stopped in response to actual or potential violations of state or federal air quality standards in the impacted areas~~ (1) A county shall only burn vegetative storm debris at a site that has been preassessed by the department to determine that the site is consistent with all state and federal laws and regulations.

(2) A county that engages in the open burning of vegetative storm debris at a site that has been preassessed by the department shall comply with this section and the procedures established by the Director of the Arkansas Department of Environmental Quality.

(3) A county may burn vegetative storm debris at no more than four (4) sites at one (1) time unless the director determines that additional open burning sites are necessary.

(d) At least three (3) days before the commencement of open burning, the county shall provide written notification to the director that certifies the preassessed site satisfies the requirements of all applicable laws and regulations, unless notification is waived by the director.

~~(d)(e) The open Open burning of nonvegetative storm debris, including, but not limited to, tires, lumber, construction debris, demolished structures, household wastes, and trade wastes under this section shall not be permitted under this section.:~~

- ~~(1) Be performed only during daylight hours on Monday through Friday;~~
- ~~(2) Not occur on a state or federal holiday;~~
- ~~(3) Be completed within one hundred twenty (120) days after the written notice or disaster declaration under subsection (b) of this section unless extended by the director;~~
- ~~(4) Be conducted in a manner so as not to create a nuisance to surrounding communities;~~
- ~~(5) Be conducted only if:~~
  - ~~(A) The county is in attainment of the National Ambient Air Quality Standards;~~
  - ~~(B) A burn ban is not in effect for the county; and~~
  - ~~(C) Adequate firefighting personnel are available to respond to an emergency at a designated open burning site;~~
- ~~(6) Comply with all other applicable state, federal, or local statutes, regulations, rules, ordinances, and orders; and~~
- ~~(7) Be conducted no more than two (2) times per calendar year if the county has not been declared a disaster area under subdivision (b)(1) of this section.~~

~~(e) County governments open burning vegetative storm debris under this section shall comply with all other applicable federal, state, or local statutes, rules, regulations, ordinances, and orders.~~

~~(f) The department may recommend alternative methods of vegetative storm debris disposal including the use of air curtain incinerators or composting to the extent allowed under federal law Open burning under this section shall:~~

- ~~(1) Not be conducted within:~~
  - ~~(A) Five hundred feet (500') of a residence unless the owner of the residence has given written permission for the open burning; or~~
  - ~~(B) One thousand feet (1000') of a school; and~~
- ~~(2) Exclude any nonvegetative storm debris, including without limitation one (1) or more of the following:~~

- (A) Tires;
- (B) Lumber;
- (C) Construction debris;
- (D) Demolished structures;
- (E) Household wastes; and
- (F) Trade wastes.

(g)(1) The director may require one (1) or more of the following:

- (A) That a designated open burning site be relocated;
- (B) That an open burning allowed under this section be prohibited in response to actual or potential violations of state or federal air quality standards in the impacted areas; or
- (C) An alternative burn period to assure and maintain air quality compliance with National Ambient Air Quality Standards.

(2) The director may recommend alternative methods of vegetative storm debris disposal, including without limitation the use of air curtain incinerators or composting to the extent allowed under federal law.

~~(g)(1)~~(h)(1) A county judge shall not obligate state or federal funds for open burning under this section if the county judge has declared the emergency under § 12-75-108.

(2) However, a county judge may be reimbursed from state or federal funds for the cost of the open burning if the director determines that reimbursement is appropriate.

SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE. If legislation concerning the transformation of the Arkansas Department of Environmental Quality is enacted during this Regular Session of the General Assembly, the Arkansas Code Revisor and the Arkansas Code Revision Commission shall correct the references to the Arkansas Department of Environmental Quality consistent with those laws.