

Special Order Number BKF-146-2019

FOREST ORDER

USDA - FOREST SERVICE BLACK HILLS NATIONAL FOREST WITHIN THE STATE OF SOUTH DAKOTA (Black Hills Fire Protection District)

OPEN FIRE PROHIBITION

Pursuant to 16 United States Code (U.S.C.) § 551 and 36 Code of Federal Regulations (C.F.R.) § 261.50(a) and (b), the following acts are prohibited on all National Forest System lands administered by the Black Hills National Forest within the exterior boundaries of the Black Hills Fire Protection District as defined by South Dakota Codified Laws (SDCL) § 34-35-15, as described in Exhibit A (the "Restricted Area") and on all roads and trails located within the Restricted Area (the "Restricted Roads and Trails").

PROHIBITIONS:

1. ***Building, maintaining, attending or using*** a fire or campfire unless the fire is in an established fireplace approved or constructed by a public agency in a designated recreation area. Stove fires are excluded from this Order. *36 C.F.R. § 261.52(a).*

A *Campfire* means a fire, not within any building, mobile home or living accommodation mounted on a motor vehicle, which is used for cooking, personal warmth, lighting, ceremonial, or aesthetic purpose.

A *Stove fire* is defined as a fire built inside an enclosed stove or grill, a portable brazier, or a pressurized liquid gas stove, including a space-heating device.

2. To the extent not authorized by the Exemptions below, violating any provision of SDCL §§ 34-35-15, 34-35-16 and/or 34-35-17, which prohibit open fires in the Black Hills Fire Protection District, copies of which statutes are attached and hereby incorporated into this Order as Exhibit B. *36 C.F.R. § 261.52(k).*

Note: South Dakota Statute defines "open fire" as any fire to burn slash, brush, grass, stubble, debris, rubbish, or other inflammable material not enclosed in a stove, spark proof incinerator, or an established fireplace approved or constructed by a public agency in a designated recreation area.

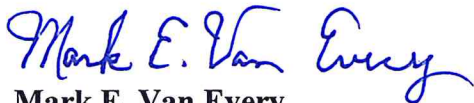
EXEMPTIONS:

Pursuant to 36 C.F.R. § 261.50 (e), the following persons are exempt from this Order:

1. Any person with a Forest Service or State issued permit specifically authorizing the otherwise prohibited act or omission.
2. Any Federal, State, or local officer, or member of any organized rescue or fire fighting force in the performance of an official duty.

This order will be in effect from the date it is signed, and continue through December 31, 2024 or until rescinded.

Done at Custer, South Dakota, this 3rd day of May 2019.



Mark E. Van Every
Forest Supervisor

Subpart B – Order Request Justification Form
Exhibit A – Black Hills Fire Protection District Map
Exhibit B – South Dakota Statues
Civil Rights
Assessment of Need

Violation of this prohibition is punishable as a Class B misdemeanor, by a fine of not more than \$5,000.00 for an individual, or \$10,000.00 for an organization or imprisonment for not more than six (6) months, or both. *16 U.S.C. § 551 and 18 U.S.C. §§ 3559 and 3571 (b)(6).*

Exhibit B

South Dakota Statutes §§ 34-35-15, 34-35-16 and/or 34-35-17, Black Hills Fire Protection District.

34-35-15. Black Hills Forest Fire Protection District--Area included. To protect the timber on areas subject to unusual fire dangers, there is hereby created the Black Hills Forest Fire Protection District, consisting of all that part of the state described by metes and bounds as follows: Commencing at a point on the Wyoming-South Dakota state line at the junction of Interstate Highway 90 at the state line; thence east and southeast along Interstate Highway 90 via Rapid City to the intersection of U.S. Highway 16B; thence south and southwest along U.S. Highway 16B to the intersection of State Highway 79; thence south along State Highway 79 to the intersection of U.S. Highway 18; thence south along U.S. Highway 18 to the Cheyenne River; thence west and northwest along the Cheyenne River to the Wyoming-South Dakota state line; thence north along said state line to the place of beginning. The Black Hills Forest Fire Protection District does not include any area within the limits of any municipality.

34-35-16. Permit required for open fire in Black Hills district -- Violation as misdemeanor -- Liability for civil damages. The starting of an open fire within the Black Hills forest fire protection district by a person or a group of persons is prohibited unless a permit to do so is first obtained from the state forester or from the United States forest service supervisor. An open fire as used in this section and § 34-35-17 is any fire to burn slash, brush, grass, stubble, debris, rubbish, or other inflammable material not enclosed in a stove, spark-proof incinerator, or an established fireplace approved or constructed by public agencies in designated recreation areas. A violation of this section is a Class 1 misdemeanor. Any person who violates this section is liable for civil damages for all injuries caused by the fire.

34-35-17. Issuance of permit for open fire in Black Hills district -- Conditions required. Any United States forest service supervisor, or his designee, the state forester or his designee shall have authority to issue a permit upon an application to any person to start an open fire within the Black Hills forest fire protection district if in his opinion such fire will not endanger the life or property of another, or deny such permit if in his opinion the climatic conditions or location of the material to be burned is such that the burning would endanger the life or property of others and he may issue a permit subject to such conditions and restrictions as he may consider necessary to prevent the spread of the fire permitted; and he may revoke a permit issued by him upon the change of climatic or other conditions which he considers would make the burning unsafe.

Management Objectives

To ensure the protection of public safety, public and private property, and the natural resources within the Black Hills National Forest by regulating the use of fires within the Black Hills Fire Protection District.

Exhibit A - Black Hills Fire Protection District

