

Chapter 102: OPEN BURNING

SUMMARY: This rule provides for the prohibition of the open burning of specific materials and certain open burning activities. In addition, the rules prohibits all open burning activities which are not specified as permissible open burning with or without an open burning permit.

1. Scope

- A.** This section shall be applicable in all ambient air quality regions in the State of Maine.
- B.** This section shall not interfere with or supersede any local law or ordinance which is more stringent.

2. Prohibitions and Permissible Open Burning. Outdoor burning is prohibited in all areas of the State, except as follows:

- A. Permissible Open Burning With Permit.** When not prohibited by local ordinances the following types of burning are permissible if a permit has been obtained from the Town Forest Fire Warden, forest ranger, or local fire prevention official having jurisdiction over the location where the fire is to be set, so long as the burning is conducted according to the terms and conditions of such permit and provided no nuisance is created.

NOTE: Any kindling or use of out-of-door fires is regulated by the Department of Conservation, Maine Forest Service. Any requirements or conditions of issuance of a fire permit must be in accordance with Title 12, Chapter 807 - Forest Fire Control, Subchapter IV - Regulation of Open Burning, Article II Out-of-Door Fires, Sections 9321-9324 and Title 25, Chapter 317 - Preventative Measures and Restrictions, sec. 2436-A.

- (1) Recreational campfires kindled when the ground is not covered by snow;
 - (2) Fires in conjunction with holiday and festive celebration, pursuant to Section 2(A)(5) of this rule;
 - (3) Burning of solid or liquid fuels and structures for the purpose of research or bona fide instruction and training of municipal or volunteer firefighters pursuant to Maine Revised Statutes Title 26, section 2102 and industrial fire fighters in methods of fighting fires when conducted under the direct control and supervision of qualified instructors and with a written objective for the training. For purposes of this section, "qualified instructor" means the fire chief or designee or a fire-fighting instructor. Structures burned for instructional purposes must first be emptied of waste materials that are not part of the training objective.
 - (4) Burning for agricultural purposes which include but are not limited to open burning of blueberry fields, potato tops, hayfields and prescribed burning for timberland management.
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- (5) Out-of-door burning of wood wastes and painted and unpainted wood from demolition debris in the open. For purposes of this chapter, the term “wood wastes” means brush, stumps, lumber, bark, wood chips, shavings, slabs, edgings, slash, sawdust and wood from production rejects that are not mixed with other solid or liquid waste, and “lumber” means material that is entirely made of wood and is free from metal, plastics, coatings and chemical treatments.
- (6) Open burning of leaves, brush, deadwood and tree cuttings accrued from normal property maintenance by the individual landowner or lessee of the land unless expressly prohibited by municipal ordinance.
- (7) Burning on site for the disposal of wood wastes and painted and unpainted wood from construction and demolition debris generated from the clearing of any land or by the erection, modification, maintenance, demolition or construction of any highway, railroad, power line, communication line, pipeline, building or development.
- (8) Burning of vegetative growth for hazardous abatement purposes, such as, but not limited to, the burning of grass fields.
- (9) Burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum product.
- (10) The burning of wood wastes and painted and unpainted wood from construction and demolition debris at solid waste facilities in accordance with a facility license issued pursuant to Maine’s Solid Waste Management Rules, 06-096 CMR 400 to 409.
- (11) The burning of empty containers, including fiberboard boxes and paper bags, previously containing explosives and being disposed of in accordance with the provisions of Maine Revised Statutes Title 25, section 2472.
- (12) Explosives being disposed of under the direct supervision and control of the State Fire Marshal

NOTE: Although this rule does not require the separation of painted and unpainted wood from demolition debris, Maine law requires that “A person engaged in any renovation, remodeling, maintenance or repair project involving lead-based paint ...shall take reasonable precautions to prevent the release of lead to the environment, including the cleanup, removal and appropriate disposal of all visible lead-based paint debris generated by the project.” (Title 38 MRSA § 1296)

NOTE: Any open burning occurring at a municipal solid waste disposal site must be conducted in accordance with those forest fire prevention measures specified in Title 12, Chapter 807 - Forest Fire Control, Subchapter IV - Regulation of Open Burning, Article I - Dumps, Sections 9301 - 9304.

B. Permissible Open Burning Without Permit. When not prohibited by local ordinances, the following types of burning are permissible without a permit so long as no nuisance is created.

- (1) Residential use of outdoor grills and fireplaces for recreational purposes such as preparing food.
 - (2) Recreational campfires kindled when the ground is covered with snow or on frozen bodies of water.
 - (3) Use of outdoor grills and fireplaces for recreational purposes such as preparing food at commercial campgrounds in organized towns, as long as the commercial campgrounds are licensed by the health engineering division of the Department of Human Services.
- C. No person, firm, corporation, association, municipal or state agency shall engage in any open burning except in conformity with Section 2.

NOTE: Paper or cardboard may be burned as kindling only in amounts necessary to ensure ignition of fires pursuant to Sections 2(A) and 2(B) of this rule.

AUTHORITY: 38 M.R.S.A., Section 585-A

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