

Proposed New York State Department of Environmental Conservation Regulations on Open Burning

Existing Part 215 is repealed.

A new Part 215 is added as follows:

215.1 Definitions

215.2 Prohibitions

215.3 Exceptions and restricted burning

Section 215.1 Definitions.

- (a) Open Fire - Any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere. Open fires include burning in barrels or modifications thereof. Open fires do not include burning in outdoor furnaces or boilers that are used to heat buildings when the devices are actually used for such purpose.
- (b) Agricultural Land - The land and on-farm buildings , equipment, manure processing and handling facilities, and practices that contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a 'commercial horse boarding operation' and 'timber processing'. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.
- (c) Camp Fire - any outdoor open fire less than three feet in height, length and width or diameter.
- (d) Agricultural Waste - Any waste from naturally grown products such as vines, trees and branches from orchards, leaves and stubble. Agricultural waste does not include pesticide containers, fertilizer bags, large plastic storage bags (including bags commonly known as "Ag bags"), offal, tires, plastic grain bags, and other plastic or synthetic materials.
- (e) Acquired Structure - A structure donated or loaned from a property owner for the purpose of conducting fire training.

Section 215.2 Prohibitions.

Except as permitted by section 215.3 of this Part, no person shall burn, cause, suffer, allow or permit the burning of any materials in an open fire.

Section 215.3 Exceptions and restricted burning.

Burning in an open fire, provided it is not contrary to other law or regulation, will be allowed as follows:

- (a) Barbecue grills, maple sugar arches, and similar outdoor cooking devices when actually used for cooking or processing food.
- (b) Small fires for cooking and camp fires provided that only charcoal or natural untreated wood is used as fuel and the fire is not left unattended until extinguished.
- (c) On-site burning of agricultural wastes as part of a valid agricultural operation on contiguous agricultural lands larger than five acres actively devoted to agricultural or horticultural use, provided such waste is actually grown on those lands and such waste is capable of being fully burned within a 24-hour period.
- (d) The use of liquid petroleum fueled smudge pots to prevent frost damage to crops.
- (e) Ceremonial or celebratory bonfires where not otherwise prohibited by law, provided that only natural untreated wood or other agricultural products are used as fuel and the fire is not left unattended until extinguished.
- (f) Small fires that are used to dispose of a flag or religious item, and small fires or other smoke producing process where not otherwise prohibited by law that are used in connection with a religious ceremony.
- (g) Burning on an emergency basis of explosive or other dangerous or contraband materials by police or other public safety organization.
- (h) Prescribed burns performed according to Part 194 of this Title.
- (i) Fire training, including firefighting, fire rescue, and fire/arson investigation training, performed under applicable rules and guidelines of the New York State Department of State's Office of Fire Prevention and Control. For fire training performed on acquired structures, the structures must be emptied and stripped of any material that is toxic, hazardous or likely to emit toxic smoke (such as asbestos, asphalt shingles and vinyl siding

or other vinyl products) prior to burning and must be at least 300 feet from other occupied structures. No more than one structure per lot or within a 300 foot radius (whichever is bigger) may be burned in a training exercise.

(j) Individual open fires as approved by the Director of the Division of Air Resources as may be required in response to an outbreak of an animal disease upon request by the Commissioner of the Department of Agriculture and Markets.

(k) Individual open fires that are otherwise authorized under the environmental conservation law, or by rule or regulation of the Department.