

ARTICLE III. OPEN BURNING

Sec. 1-42. Purpose of article.

This Regulation is for the purpose of preventing, abating, and controlling air pollution resulting from air contaminants released in the open burning of refuse or other combustible materials.

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Sec. 1-43. Application of article.

This Regulation applies to all operations involving open burning except those specifically exempted by Sec. 1-45.

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Sec. 1-44. General prohibition.

A person shall not cause, allow, or permit open burning of refuse or other combustible material except those covered by a permit issued under the authority of the Western North Carolina Regional Air Pollution Control Board under Section 143.-215.108 of the act.

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Sec. 1-45. Permissible burning -- Generally.

While recognizing that open burning contributes to air pollution, the Board is aware that certain types of open burning may reasonably be allowed in the public interest. Therefore, the following types of open burning are permissible as specified if burning is not prohibited by ordinances and regulations of other governmental entities having jurisdiction. The authority to conduct open burning under the provisions of this Regulation does not exempt or excuse any person from the consequences, damages or injuries, which may result from this conduct. It does not excuse or exempt any person from complying with all applicable laws, ordinances, regulations, and orders of the governmental entities having jurisdiction even though the open burning is conducted in compliance with this Regulation. Permission granted under the authority of the Board under this Regulation shall be subject to continuing review and may be withdrawn at any time. Permissible open burning is:

(1) fires purposely set for the instruction and training of fire-fighting personnel when conducted under the supervision of:

(A) the North Carolina Insurance Department,

(B) North Carolina Technical Institutes, or

(C) the North Carolina Community Colleges, including:

(i) the North Carolina Fire College and

(ii) the North Carolina Rescue College, which are conducted with the cooperation of one or both of these agencies;

(2) fires purposely set for the instruction and training of fire-fighting personnel at permanent fire-fighting training facilities when conducted by a fire department but these fires will not be permitted if the primary purpose in setting the fire is refuse disposal or recovery of salvageable materials. Factors which may be considered in determination of primary purpose include type, amount, and nature of combustible substances;

(3) fires purposely set for the instruction and training of industrial fire-fighting personnel in training programs which are repetitious and continuous in nature. A plan containing program aspects related to possible air pollution including, but not limited to:

(A) nature and location of the exercise,

(B) nature of material to be burned,

(C) amount of each type of material to be burned,

(D) training objectives of the exercise, and

(E) insofar as it is known, a schedule of dates and times of the exercise,

has been submitted to and has been approved by the director. These fires, however, will not be permitted if the primary purpose in setting the fire is refuse disposal or recovery of salvageable materials. Factors which may be considered in determination of primary purpose include type, amount and nature of combustible substances. Any deviations from the dates and times of exercises, including additions, postponements, and deletions,

submitted in the schedule in the approved plan with be communicated verbally to the Western North Carolina Regional Air Pollution Control Agency office at least one hour before the change;

(4) fires purposely set for the instruction and training of public and industrial fire-fighting personnel not covered under Subparagraphs (1), (2), or (3) of the Section, if the training program aspects related to possible air pollution effects are approved in advance by the air quality section and if these fire-fighting exercise conditions are met:

(A) the Western North Carolina Regional Air Pollution Control Agency office shall be initially notified orally or in writing at least 48 hours in advance of any burning conducted in conjunction with a fire training exercise. If initial notice is given orally, a written notification shall also be submitted within 24 hours after the initial oral notification. The notification, either written or oral, shall include:

- (i) the nature and location of the exercise
- (ii) date and time that the exercise is to be held,
- (iii) nature of materials to be burned,
- (iv) amount of each type of material to be burned, and
- (v) training objectives of the exercise•

(B) the burning of salvageable items, including but not limited to insulated wire and electric motors, shall not be extended as a fire-training exercise, except as provided in Subparagraph (C) (iii) of this Section.

(C) the Western North Carolina Regional Air Pollution Control Agency may withhold approval for burnings purposely set for fire-fighting exercises, other than those described in Subparagraphs (1), (2) and (3) of the Section in the following cases:

(i) when the required notice has not been received 48 hours in advance of the proposed burning;

(ii) when the required notice does not include adequate details about:

- (I) the nature and location of the exercise
- (II) date and time that the exercise is to be held,
- (III) nature of objects or materials to be burned,
- (IV) amount of each type of material to be burned, and
- (V) training objectives of the exercises;

(iii) when salvageable items are proposed to be burned in conjunction with the exercise, except that the Director may allow an exercise involving the burning of a motor vehicle if the sole objective is instruction on the techniques of fighting such a fire; the number of motor vehicles burned over a period of time by any one training unit or by

several related training units shall be considered in determining the objective of the exercise;

- (iv) when the training unit has entered a formal or informal contractual relationship prior to any burning incorporated into a training exercise wherein the unit is compensated for conducting the burning;
- (5) fires purposely set by manufactures of fire extinguishing materials or equipment, testing laboratories, or other persons approved by the Western North Carolina Regional Air Pollution Control Board, for the purpose of testing or developing these materials or equipment in accordance with a valid standard qualification program;
- (6) fires purposely set to agricultural lands for disease and pest control and other accepted agricultural or wildlife management practices acceptable to the Board; —
- (7) fires purposely set to forest lands for forest management practices acceptable to the Division of Forestry and the Board.
- (8) fires purposely set in rural areas for rights-of-way maintenance only in instances where there are not other practicable or feasible methods of disposal and under conditions acceptable to the Board.
- (9) camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions, or for human warmth and comfort;
- (10) open burning of leaves, tree branches or yard trimmings originating on the premises of private residences and burned on those premises in areas where no public pickup facilities are available. The burning shall be between 11:00 a.m. and 3:00 p.m. and shall not create a nuisance;
- (11) open burning for land clearing or right-of-way maintenance in areas other than those zoned solely residential or used primarily for residential purposes, if the following conditions are met:
 - (A) Prevailing winds at the time of burning shall be away from any city or town or built-up area, the ambient air of which may be significantly affected by Smoke, fly-ash, or other air pollutants from the burning.
 - (B) the location of the burning shall be at least 1,000 feet from any dwelling located in a predominantly residential area other than a dwelling structure located on the property on which the burning is done;
 - (C) the amount of dirt on the material being burned shall be minimized;
 - (D) heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth shall not be burned;
 - (E) initial burning shall generally begin only between the hours of 11:00 a.m. and 3:00 p.m. and no combustible material shall be added to the fire between 3:00 p.m. on one day and 11:00 a.m. on the following day, except that, under favorable meteorological conditions, deviation from these hours of burning may be granted by the Board. The

owner or operator of the open burning operation shall be responsible for obtaining written approval for burning during periods other than those specified above in this Part;

(12) fires for the disposal of dangerous materials where there is no alternative method of disposal, and burning is conducted in accordance with procedures acceptable to the Board.

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