

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

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TITLE 7, CHAPTER 27

SUBCHAPTER 2

CONTROL AND PROHIBITION OF OPEN BURNING

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7:27-2.1 DEFINITIONS

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Air contaminant" means solid particles, liquid particles, vapors, or gases which are discharged into the outdoor atmosphere.

"Authorized agent" means a person designated by the Commissioner for a specific function.

"Class I area" means an area so designated by the United States Environmental Protection Agency or the State of New Jersey in order to preserve the area's unique environmental characteristics. (As of January 1, 1980, only the Brigantine Wildlife Refuge been so designated in New Jersey.)

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Cullings" means dead or non-productive trees which have been removed to allow for the planting of new trees to improve crop yield.

"Dangerous material" means trade waste which presents an existing or potential hazard to health or safety if disposed of by any means other than open burning including, but not limited to, explosives, nitrocellulose and elemental sodium.

"Department" means the Department of Environmental Protection.

"Garbage" means waste animal or vegetable matter from houses, kitchens, restaurants, hotels, produce markets, or any other source, or food of any kind to be thrown away.

"Hedgerow" means a barrier-like formation composed of, but not limited to, rocks, fencing material, earth, and plant life used to separate sections of farm land in use or serve as boundaries for such lands.

"Herbaceous plant life" means plant life relating to or having the characteristics of an herb, that is, a seed producing annual, biennial or perennial that does not develop persistent woody tissue but dies down at the end of a single growing season.

"Incinerator" means any device, apparatus, equipment, or structure used for destroying, reducing, or salvaging by fire any material or substance including, but not limited to, refuse, rubbish, garbage, trade waste, debris, or scrap or a facility for cremating human or animal remains.

"Infested plant life" means plant life contaminated by or harboring an insect, a plant pathogen, a weed, or any other organism capable of causing damage, economic or otherwise, to environmental or natural resources.

"Non-attainment area" means any area determined by the Department as one in which the ambient air concentration of a criteria pollutant exceeds a national ambient air quality standard (NAAQS).

"Open burning" means any fire whose products of combustion are emitted directly into the open air, and are not directed thereto through the stack or chimney of an incinerator.

"Plant life" means vegetation including, but not limited to, trees, tree branches, leaves, yard trimmings, shrubbery, grass, weeds, and crops.

"Prescribed burning" means the open burning of plant life under such conditions that the fire is confined to a predetermined area and accomplishes the environmentally beneficial objectives of prevention and control of wildfires.

"Prunings" means dead or excess branches and twigs removed from plants and trees to improve crop yield. This shall mean and include cullings exclusive of their subterranean portions.

"Refuse" means rubbish, garbage, trade waste, and plant life.

"Rubbish" means waste solids not considered to be highly flammable or explosive including, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, furniture, tin cans, glass, crockery, masonry, and other similar materials.

"Salvage operation" means any operation or activity from which is salvaged or reclaimed any product or material including, but not limited to, metals, chemicals, or shipping containers.

"Stack or chimney" means a flue, conduit, or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

"Trade waste" means all waste solid, or liquid material, or rubbish resulting from construction, building operations, or the prosecution of any business, trade, or industry including, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders, and other forms of solid, or liquid waste material.

7:27-2.2 OPEN BURNING FOR SALVAGE OPERATIONS

No person shall cause, suffer, allow, or permit a salvage operation by open burning.

7:27-2.3 OPEN BURNING OF REFUSE

(a) No person shall cause, suffer, allow, or permit the disposal of rubbish, garbage, or trade waste, or buildings or structures by open burning.

(b) No person shall cause, suffer, allow, or permit the disposal of fallen leaves by open burning.

(c) No person shall cause, suffer, allow, or permit the disposal of any type of plant life by open burning.

(d) The provisions of this Section shall not apply to open burning of refuse for training or research exercises in fire protection or prevention when conducted at a permanent facility or training center designed to be used solely for such purposes on a continuing basis.

7:27-2.4 GENERAL PROVISIONS

(a) All conditions and provisions of any permit granted in accordance with this Subchapter must be fulfilled.

(b) Any permit issued under the provisions of this Subchapter shall not be transferable either from one location to another or from one person to another.

7:27-2.5 INFESTED PLANT LIFE

(a) The Department may issue a permit for open burning of infested plant life, except in any municipality which prohibits such open burning, to a person responsible for the control of infested plant life upon certification by an authorized agent that no other effective method of controlling the infestation can be used without causing damage, economic or otherwise, to environmental or natural resources.

(b) Applications may be made to the Bureau of Forest Fire Management in the Department for a permit for the open burning of infested plant life.

(c) Such permit may be issued for a single event or for a period not to exceed thirty (30) days, may be conditioned upon meteorological factors and any other requirements which the Department deems to be necessary, and is revocable at the discretion of the Department.

(d) No open burning shall commence until a permit is issued and is current. Any person seeking a permit for the open burning of infested plant life shall file with the Department a permit application on a form provided by the Department, signed by both the applicant and the authorized agent, which sets forth the following and any other information requested by the Department:

1. The name, address, and telephone number of the person submitting the permit application; if such person is a legal entity, the name, title, and address of the individual authorized to accept service or process on its behalf and the name of the officer in charge of the premises where infested plant life is to be burned;

2. The type of business or activity involved;

3. Municipal restrictions on open burning of plant life;

4. The proposed operating practice including the type and quantity of infested plant life to be burned;

5. Whether the open burning is to be carried on in a single instance or the frequency if intermittent;

6. The exact location at which the infested plant life will be burned;

7. Reasons why the infestation cannot be controlled by any method other than by open burning without causing damage, economic or otherwise, to environmental or natural resources.

7:27-2.6 PRESCRIBED BURNING

(a) The Department may issue a permit authorizing prescribed burning in accordance with a plan approved by and under the control and supervision of the Bureau of Forest Fire Management.

(b) The permit may be conditioned upon meteorological factors and any other requirements which the Bureau of Forest Fire Management deems to be necessary and is revocable at the discretion of the Department.

(c) The permit may be issued for a single event or for a period of days, and no prescribed burning shall commence until a permit is issued and current.

(d) Any person seeking a permit for prescribed burning shall file with the Bureau of Forest Fire Management a permit application, on a form provided by the Department, which sets forth the following and any other information requested by the Bureau of Forest Fire Management:

1. The name, address, and telephone number of the person submitting the permit application; if such person is a legal entity, the name, title, and address of the individual authorized to accept service of process on its behalf and the name of the officer in charge of the premises where the prescribed burning is to take place;

2. The name and address of the owner of the premises where the prescribed burning is to take place;

3. The exact location at which the prescribed burning is to take place;

4. A detailed plan describing the specific reasons why the prescribed burning is necessary and how it is to be done.

7:27-2.7 EMERGENCIES

(a) The Department may issue a permit to a municipality for the open burning of plant life upon a finding of merit in an affidavit filed with the Bureau of Air Pollution Control by the municipal clerk that excessive quantities of plant wastes have been produced by an emergency such as a wind storm or ice storm.

(b) The permit may be conditioned upon meteorological factors and any other requirements which the Bureau of Air Pollution Control deems to be necessary and is revocable at the discretion of the Department.

(c) The permit may be issued for a single event or for a period not to exceed seven (7) days, and no open burning of plant life shall commence until a permit is issued and current.

(d) The affidavit shall set forth the following and any other information requested by the Department:

1. The name, address, and telephone number of the municipal clerk submitting the affidavit;

2. The name of the authorized municipal representative in charge of the premises where the plant life is to be burned;

3. The proposed operating practice including the type and quantity of plant life to be burned;

4. Whether the open burning is to be carried on in a single instance or the frequency if intermittent;

5. The exact location(s) at which the plant life is to be burned;

6. Reasons why the plant life cannot be disposed of by any method other than by open burning.

7:27-2.8 DANGEROUS MATERIAL

(a) The Department may issue a permit for the open burning of dangerous material, except in any municipality which prohibits such open burning, where no other known method of disposal can be used without hazard to health or property, upon a finding of merit in an affidavit filed with the Bureau of Air Pollution Control on a form provided by the Department by the person seeking to engage in such activity.

(b) The permit may be conditioned upon meteorological factors and any other requirements which the Department deems to be necessary and is revocable at the discretion of the Department.

(c) The permit may be issued for a period not to exceed seven (7) days, or for a period not to exceed sixty (60) days, or for a period not to exceed six (6) months and no disposal of dangerous materials by open burning shall commence until a permit is issued and current.

(d) The affidavit shall set forth the following and any other information requested by the Department:

1. The name, address, and telephone number of the person submitting the affidavit; if such person is a legal entity, the

name, title, and address of the individual authorized to accept service of process on its behalf and the name of the officer in charge of the premises where the dangerous material is to be burned;

2. The type of business or activity involved;

3. Municipal restrictions on open burning of dangerous material;

4. The proposed operating practice including the type and quantity of dangerous material to be disposed of by open burning;

5. Whether the open burning is to be carried on in a single instance or the frequency if intermittent;

6. The exact location at which the dangerous material will be disposed of by open burning;

7. Reasons why the dangerous material cannot be disposed of by any method other than by open burning without resulting in a hazard to health or property.

8. Measures undertaken to eliminate or to reduce the quantity of dangerous material to be disposed of by open burning:

- i. Prior to the initial submittal of an affidavit or;
- ii. Since the issuance of the previous permit if the affidavit is for a renewal.

7:27-2.9 HERBACEOUS PLANT LIFE AND HEDGEROWS

(a) The Department may issue a permit for the open burning on the premises where grown, of herbaceous plant life and plant life growing in hedgerows except in any municipality which prohibits such burning, when the premises are actively in use for raising food crops or salt hay for commercial purposes and on a commercial scale and where no other effective method of disposal can be used without causing damage, economic or otherwise, to environmental or natural resources.

(b) The permit will be issued only in accordance with a plan approved by and under the control and supervision of the Bureau of Forest Fire Management.

(c) The permit will be conditioned upon the confirmation with the Bureau of Forest Fire Management of favorable meteorological and air quality conditions on the day the open burning will be conducted.

(d) The permit may also be conditioned upon any requirements which the Department deems to be necessary and is revocable at the discretion of the Department.

(e) The permit may be issued for a period not to exceed seven (7) days, or for a period not to exceed ninety (90) days, or for a period not to exceed one year and no open burning shall commence until a permit is issued and current.

(f) Any person seeking a permit for the open burning of herbaceous plant life or hedgerows shall file with the Bureau of Forest Fire Management a permit application on a form provided by the Department which sets forth the following and any other information requested by the Department:

1. The name, address, and telephone number of the person submitting the permit application; if such person is a legal entity, the name, title, and address of the individual authorized to accept service of process on its behalf and the name of the officer in charge of the premises where the open burning is to take place;

2. The name and address of the owner of the premises where the open burning is to take place;

3. Municipal restrictions on open burning;

4. The exact location of the premises on which the herbaceous plant life or hedgerows will be burned;

5. The nature of the business or activity involved and the use being made of the premises;

6. A detailed plan describing the nature and quantity of herbaceous plant life or hedgerows and how the open burning is to be done, including whether it is to take place in a single instance or the frequency if intermittent;

7. Reasons why no other effective method of disposal can be used without causing damage, economic or otherwise, to environmental or natural resources.

7:27-2.10 ORCHARD PRUNINGS AND CULLINGS

(a) The Department may issue a permit for the open burning of orchard prunings and cullings on the premises where grown, except in any municipality which prohibits such burning, when such prunings and cullings are derived from trees being cultivated for commercial purposes to produce food crops or as ornamentals and where no other effective method of disposal can be used without causing damage, economic or otherwise, to environmental or natural resources.

(b) The permit will be issued only in accordance with a plan approved by and under the control and supervision of the Bureau of Forest Fire Management.

(c) The permit will be conditioned upon the confirmation with the Bureau of Forest Fire Management of favorable meteorological and air quality conditions on the day the open burning will be conducted.

(d) The permit may also be conditioned upon any requirements which the Department deems to be necessary and is revocable at the discretion of the Department.

(e) The permit may be issued for a period not to exceed seven (7) days, or for a period not to exceed ninety (90) days, or for a period not to exceed one year and no open burning shall commence until a permit is issued and current.

(f) Any person seeking a permit for the open burning of orchard prunings and cullings shall file with the Bureau of Forest Fire Management a permit application on a form provided by the Department which sets forth the following and any other information requested by the Department:

1. The name, address, and telephone number of the person submitting the permit application; if such person is a legal entity, the name, title, and address of the individual authorized to accept service of process on its behalf and the name of the officer in charge of the premises where the open burning is to take place;

2. The name and address of the owner of the premises where the open burning is to take place;

3. Municipal restrictions on open burning;

4. The exact location of the premises on which the orchard prunings and cullings will be burned;

5. The nature of the business or activity involved and the use being made of the premises;

6. A detailed plan describing the nature and quantity of orchard prunings and cullings and how the open burning is to be done, including whether it is to take place in a single instance or the frequency if intermittent;

7. Reasons why no other effective method of disposal can be used without causing damage, economic or otherwise, to environmental or natural resources.

7:27-2.11 LAND CLEARING

(a) The Department may issue a permit for the open burning of plant life on the premises where grown, except in any municipality which prohibits such burning, upon a finding of merit in an affidavit, filed by the owner of such premises, which provides certification that:

1. No other effective method of disposal can be used without causing damage, economic or otherwise, to environmental or natural resources; and

2. The premises to be cleared by open burning will be used exclusively for commercial agricultural purposes for a period of at least five (5) years after such open burning.

(b) Such affidavit shall become part and condition of any permit approved pursuant to the provisions of this Section.

(c) The permit will be issued in accordance with a plan approved by and under the control and supervision of the Bureau of Forest Fire Management.

(d) The permit will be conditioned upon confirmation with the Bureau of Forest Fire Management of favorable meteorological and air quality conditions on the day the open burning will be conducted.

(e) The permit may also be conditioned upon any requirements which the Department deems necessary and is revocable at the discretion of the Department.

(f) The permit may be issued for a period not to exceed ninety (90) days and no open burning shall commence until a permit is issued and current.

(g) The permit will be limited to a land area not to exceed twenty-five (25) acres.

(h) Any person seeking a permit to clear land by open burning shall provide such information as requested by the Department and shall file with the Bureau of Forest Fire Management a permit application on a form provided by the Department.

(i) No more than one permit pursuant to the provisions of this Section will be issued in any one calendar year for a given premise.

(j) No person shall cause, suffer, allow, or permit the use of land cleared by open burning pursuant to the provisions of this Section for any purpose other than commercial agriculture for a period of five (5) years after such open burning.

(k) No person shall cause, suffer, allow, or permit open burning pursuant to the provisions of this Section in an area which is designated non-attainment for total suspended particulates, or in a Class I area, or within six (6) kilometers of such areas.

7:27-2.12 SPECIAL PERMIT

(a) The Department may issue a special permit to any person, regardless of the provisions of any other Section of this Subchapter, for the open burning of any substance or material upon a finding

of merit in an affidavit filed with the Bureau of Air Pollution Control that such substance or material represents an imminent hazard to the public health, welfare, or safety.

(b) The permit may be conditioned upon any requirements which the Bureau of Air Pollution Control deems to be necessary and is revocable at the discretion of the Department.

(c) The permit will be issued for a single event and no open burning shall commence until a permit is issued and current.

(d) The affidavit shall set forth the following and any other information requested by the Department:

1. The name, address, and telephone number of the person submitting the affidavit;

2. The name of the owner and authorized representative in charge of the premises where the substance or material is to be burned;

3. The proposed operating practice including the nature, type, and quantity of substance or material to be burned;

4. The date(s) on which the open burning is to take place and the time(s) of day;

5. The exact location(s) at which the open burning is to take place;

6. Reasons why the substance or material cannot be disposed of by any method other than by open burning.

7:27-2.13 FEES

(a) Applications for permits for open burning pursuant to the provisions of this Subchapter shall be accompanied by a service fee in accordance with the following schedule and no permit will be issued until the service fee is received.

<u>Section of Subchapter</u>	<u>Term of Permit</u>	<u>Service Fee</u>
2.5 Infested Plant Life	30 days or less	\$ 10.00
2.6 Prescribed Burning	Specified on Permit	No Fee
2.7 Emergencies	7 days or less	10.00
2.8 Dangerous Materials	7 days or less	10.00
	to 60 days	25.00
	to 6 months	50.00
2.9 Herbaceous Plant Life and Hedgerows	7 days or less	10.00
	to 90 days	25.00
	to 1 year	50.00
2.10 Orchard Prunings and Cullings	7 days or less	10.00
	to 90 days	25.00
	to 1 year	50.00
2.11 Land Clearing	90 days or less	25.00 minimum plus \$1 per acre to \$50.00 maximum

(b) Service fees shall be submitted in the form of a check or postal money order. Fees submitted pursuant to Sections 2.5, 2.9, 2.10 and 2.11 of this Subchapter shall be made payable to Forest Fire Management. Fees submitted pursuant to Sections 2.7 and 2.8 of this Subchapter shall be made payable to the order of the New Jersey Bureau of Air Pollution Control.