

6 NYCRR Part 215 - "Controlled Burns"

Introduction:

Part 215 is a State Regulation promulgated from the NYS Environmental Conservation Law (ECL) Article 19 "Air Pollution Control". Part 215 prohibits open burning in an attempt to control air pollution and help prevent wild land fires.

Who do you Contact:

When you receive a complaint involving open burning it is best to call the **DEC 24 hour dispatch 1-877-457-5680**.

Air Quality / Nuisance Smoke Complaint = DEC Officer

Wildland Fire Prevention / Safety = Forest Ranger

However, an ECO or a Forest Ranger may handle either situation and you might get either one responding.

The Law:

Section 215.2 Prohibitions

Except as allowed 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.**

(ECL 71-2105) "shall be guilty of a misdemeanor", "not less than two hundred fifty dollars nor more than ten thousand dollars or by imprisonment for a term of not more than one year, or by both such fine and imprisonment, for each separate violation."

Second offense, "shall be punished by a fine not to exceed fifteen thousand dollars or by imprisonment, or by both such fine and imprisonment, for each separate violation."

"Each day on which such violation occurs shall constitute a separate violation"

To report or register a permitted burn, call 828-4114.

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) On-site burning in any town with a total population less than 20,000 of downed limbs and branches (including branches with attached leaves or needles) less than six inches in diameter and eight feet in length between May 15th and the following March 15th.

For the purposes of this subdivision, the "total population" of a town shall include the population of any village or portion thereof located within the town. However, this subdivision shall not be construed to allow burning within any village.

WHO: Anyone, landowner, contractor, friend...

WHAT: Limbs, branches, less than 6" diameter less than 8' length. No leaves unless already attached to branches.

WHERE: On-site. Not allowed to bring material to another location. Not in villages or towns with a population greater than 20,000.

WHEN: May 15th to March 15th. Prohibited during times when historically there is increase in wild land fires.

NOTES: This exemption is for the land clearing and property clean-up from fallen vegetation debris.

No specified clearing distances around fire mentioned in exemption, refer to **9-1105 1.(d) inflammable material 3 ft around fire not removed.**

No permit needed unless you live in a fire town.

Unattended fire violation could use **9-1105 1(a) leave fire unattended** a ECL violation \$0-250

(b) Barbecue grills, maple sugar arches and similar outdoor cooking devices when actually used for cooking or processing food.

WHO: Anyone

WHAT: Wood, gas, charcoal for fuel, need to be cooking or processing food.

WHERE: Anywhere including villages

WHEN: All year

(c) Small fires used for cooking and camp fires provided that only charcoal or untreated wood is used as fuel and the fire is not left unattended until extinguished.

- WHO:** Anyone involved in the act of cooking or camping
WHAT: Charcoal or untreated wood, capable fitting into a 3'X4'X4' area
WHERE: Anywhere including villages
WHEN: All year
NOTES: Camp fires by definition have size regulations. Does "cooking fire" need definition or does it fall under camp fire "any other outdoor open fire".
No specified clearing distances around fire mentioned in exemption, refer to **9-1105 1.(d) inflammable material 3 ft around fire not removed.**
Does mention unattended in this exemption so could charge with misdemeanor or could use **9-1105 1(a) leave fire unattended** a ECL violation \$0-250

(d) 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 or generated on those lands and such waste is capable of being fully burned within a 24-hour period.

- WHO:** Anyone involved with a valid agricultural operation.
WHAT: Agricultural waste (see definition)
WHERE: Anywhere including villages
WHEN: All year. But pile cannot burn more than 24 hours.
NOTE: No specified clearing distances around fire mentioned in exemption, refer to **9-1105 1.(d) inflammable material 3 ft around fire not removed.**
Unattended fire violation could use **9-1105 1(a) leave fire unattended** a ECL violation \$0-250

(e) The use of liquid petroleum fueled smudge pots to prevent frost damage to crops.

- WHO:** Anyone
WHAT: Liquid petroleum
WHERE: Anywhere including villages
WHEN: All year

(f) Ceremonial or celebratory bonfires where not otherwise prohibited by law, provided that only untreated wood or other agricultural products are used as fuel and the fire is not left unattended until extinguished.

WHO: Anyone

WHAT: Untreated wood (see definition) and Agricultural products (no definition).

WHERE: Anywhere including villages

WHEN: All year

NOTES:

- Should be a definition of ceremonial or celebratory fire; Therefore no size limit to material.
- No specified clearing distances around fire mentioned in exemption, refer to **9-1105 1.(d) inflammable material 3 ft around fire not removed.**
- What are *agricultural products* are they the same as *agricultural waste* ?
- Material does not have to be on-site.
- Person responsible for fire could be intoxicated.
- Does mention unattended in this exemption so could charge with misdemeanor or could use **9-1105 1(a) leave fire unattended** a ECL violation \$0-250

(g) 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.

WHO: Anyone

WHAT: Depends on belief

WHERE: Anywhere including villages

WHEN: All year

(h) Burning on an emergency basis of explosive or other dangerous or contraband materials by police or other public safety organization.

WHO: Police or other safety organizations

WHAT: Depends

WHERE: Agency designated area

WHEN: All year

(i) Prescribed burns performed according to Part 194 of this Title.

WHO: Anyone involved with a valid agricultural operation. Anyone with a DEC prescribe burn permit.
WHAT: Usually brush, grasses, tree litter.
WHERE: Agricultural land or area described in prescribed burn plan.
WHEN: All year, per conditions described in prescribe burn plan

(j) 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.

(k) Individual open fires as approved by the Director of the Division of Air Resources as maybe required in response to an outbreak of a plant or animal disease upon request by the Commissioner of the Department of Agriculture and Markets, or for the destruction of invasive plant and insect species.

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

Section 215.1 Definitions

Definition	Notes
<p>(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 modified barrels. 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.</p>	<p>Includes: burning in barrels or modified barrels. Burning the legal material in a barrel is legal. Excludes: outdoor furnaces or boilers that are used to heat buildings when the devices are actually being used for such purposes. Complaints that involve odors from outdoor furnaces do not fall under 215 and would be handled civil.</p>
<p>(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.</p>	
<p>(c) Camp Fire - A camp fire or any other outdoor open fire less than three feet in height, and less than four feet in length and width or diameter.</p>	
<p>(d) Agricultural Waste - Any waste from naturally grown products such as vines, trees and branches from orchards, leaves and stubble. In addition, any fully organic waste either grown or generated on the premises, including but not limited to paper feed bags, wood shavings used for livestock bedding, bailing twine, and other non-plastic materials. Agricultural waste does not include pesticide containers, fertilizer bags, large plastic storage bags (including bags commonly known as "Ag bags"), offal, tires, plastic feed bags, and other plastic or synthetic materials.</p>	<p>If it originally came from a tree or plant they can burn it, includes wooden pallets.</p>
<p>(e) Acquired Structure - A structure donated or loaned from a property owner for the purpose of conducting fire training.</p>	
<p>(f) Untreated wood - For the purposes of this Part, any wood or lumber which is not chemically treated, coated, stained, sealed, glued or otherwise adulterated. Untreated wood does not include such materials as pressure treated lumber, plywood, particle board, fiberboard, and oriented strand board.</p>	<p>Basically logs, limbs, branches, and typical untreated, unpainted, unglued, unstained lumber pieces.</p>

(g) **On-site burning** - The burning of material, grown or generated on a particular property, in an open fire on the same property. For purposes of this definition, the "same property" shall include only property that is geographically contiguous and under the control or ownership of the same person.

Enforcement Short Charges:

Short Charge	Law & Section	Fine	V,M,F
Fire Laws Enforce 71-0703, 71-2105.1, 71-2103			
Open fire left unattended	ECL 9-1105.1(a)	\$0-250	V
Set fire endangering property of another	ECL 9-1105.1(b)	\$0-250	V
Setting fire without clearing inflammables 3'	ECL 9-1105.1(d)	\$0-250	V
Dropping lighted matches, cigarettes, cigars, or tobacco on forest land	ECL 9-1105.1(e)	\$0-250	V
Air pollution-Odor/Fumes (general)			
leaving inflammable material within 25' of railroad r.o.w. or 20' of public highway r.o.w. In a fire district	6NYCRR 211.2	\$250-10K/day	M
Burning without a permit Fire Towns	ECL 9-1105.4	\$0-250	V
Local fire department not notified	ECL 9-1105.5	\$0-250	V
Willfully setting fire to forest lands	9NYCRR 1191.2(c)(3)	\$0-250	V
Violating conditions of a permit	ECL 71-0703.4	Treble plus \$10/tree	F
215 Fire Laws Enforce 71-2105	ECL 71.0703.1	\$0-250	V
Burn material in an open fire where no exemptions apply	6NYCRR 215.2	\$250-10K/day	M