

## **PART 215**

### **OPEN FIRES**

(Statutory authority: Public Health Law, §§ 1271, 1276;  
Environmental Conservation Law, §§ 15, 77)

Sec.

215.1 Definitions

215.2 Prohibitions

Sec.

215.3 Restricted burning

#### **Historical Note**

Part filed Aug. 21, 1963; repealed, new filed April 10, 1969; Dec. 24, 1970; (§§ 215.1-215.11) renum. Part 381, Title 9, filed Sept. 1971; new (§§ 215.1-215.3) filed April 28, 1972 eff. May 1, 1972.

**Section 215.1 Definitions.** (a) *Garbage.* The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

(b) *Open fire.* Any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere.

(c) *Refuse*. All waste material, including but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals and offal. Refuse is classified in accordance with Table 1, Appendix 2.

(d) *Refuse disposal area*. Land used for depositing of refuse except that it shall not include land used for depositing of refuse from a single family, a member of which is the owner, occupant or lessee of said land, or any part of a farm on which only animal or vegetable wastes resulting from the operation of such farm are deposited. This definition includes, but is not limited to, those areas commonly referred to as landfills, sanitary landfills and dumps.

(e) *Rubbish*. Solid or liquid waste material, including but not limited to, paper and paper products; rags; trees or leaves, needles, and branches therefrom; vines; lawn and garden debris; furniture; cans; crockery; plastics; cartons; chemicals; paint; grease; sludges; oils and other petroleum products; wood; sawdust, demolition materials; tires; and automobiles and other vehicles and parts, for junk, salvage or disposal. Rubbish shall not include garbage, incinerator residue, street sweepings, dead animals or offal.

#### Historical Note

Sec. filed Aug. 21, 1963; repealed, new filed: April 10, 1969; Dec. 24, 1970; renum. 381.1, Title 9, filed Sept. 1971; new filed April 28, 1972; repealed, new filed May 17, 1972 eff. 30 days after filing.

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

- (a) of garbage;
- (b) of refuse at a refuse disposal area;
- (c) of rubbish for salvage;
- (d) for onsite disposal, of rubbish generated by residential activities in any city or village; or in any town with a total town population, including incorporated or unincorporated areas, of greater than 20,000;
- (e) for onsite disposal, of rubbish generated by industrial or commercial activities other than agricultural;
- (f) of rubbish generated by land clearing or demolition for the erection of any structure; for the construction or modification of any highway, railroad, power or communication line, or pipeline; or for the development or modification of a recreational area or park; and
- (g) of refuse during an air pollution episode, in an area for which such air pollution has been designated.

#### Historical Note

Sec. filed Aug. 21, 1963; repealed, new filed: April 10, 1969; Dec. 24, 1970; renum. 381.2, Title 9, filed Sept. 1971; new filed April 28, 1972; repealed, new filed May 17, 1972 eff. 30 days after filing. Substituted new intro. par. and (g).

**215.3 Restricted burning.** Burning in an open fire, provided it is not contrary to other law, will be permitted as follows:

- (a) Burning of land clearing and/or demolition material consisting of wood, trees, tree trimmings, leaves, or brush, generated by land clearing or demolition for the erection of any structure; for the construction or modification of any highway, railroad, pipeline, or power or communication line; or for the development or modification of a recreational area or park; provided that such burning is done onsite or at an appropriate designated burning area and in accordance with a permit issued by the commissioner after written application. An application for such permit shall include the reasons why

such burning should be permitted and such other information as may be required by the commissioner to insure that such burning will be unlikely to result in contravention of air quality standards or to cause air pollution. If the commissioner approves such application he will issue a permit which shall be for a specified period and shall contain such conditions as are deemed necessary to prevent air pollution and contravention of air quality standards. The permit may be revoked by the commissioner if there is: a failure to comply with its conditions; a violation of law in connection with the burning; or the occurrence, or likely occurrence, of either air pollution or contravention of air quality standards as a result of the burning. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.

(b) Burning at an appropriate designated burning area, serving a county, city, town, or village, of yard wastes consisting of trees, tree trimmings, leaves, and brush; provided that such burning is done in accordance with a permit issued by the commissioner after written application. An application for such permit shall include the reasons why such burning should be permitted and such other information as may be required by the commissioner to insure that such burning will be unlikely to result in contravention of air quality standards or to cause air pollution. If the commissioner approves such application he will issue a permit which shall be for a specified period and shall contain such conditions as are deemed necessary to prevent air pollution and contravention of air quality standards. The permit may be revoked by the commissioner if there is: a failure to comply with its conditions; a violation of law in connection with the burning; or the occurrence, or likely occurrence of either air pollution or contravention of air quality standards. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.

(c) Burning onsite, in areas of the State to be designated by the commissioner, of paper, paper products, cartons, tree trimmings, leaves, or lawn and garden debris.

(1) The commissioner will consider whether to designate such an area after petition by governing body of a county, city, village, or town within which such area would be located. Such petition shall include the geographical boundaries, population density, and meteorological characteristics of such area; the material to be burned; proposed control methods; and reasons why burning in an open fire should be allowed in such area.

(2) Such designation, if made, shall be by rule or regulation adopted in accordance with section 15 of the Environmental Conservation Law. In designating such an area, the commissioner will set forth any conditions deemed appropriate.

(3) The commissioner shall, from time to time, review air pollution safeguards in each designated area to determine whether the designation should be rescinded.

(d) Burning at an appropriate designated site of toxic, explosive, or dangerous materials; provided that such burning is done only in accordance with a permit which will be issued by the commissioner after written application if he determines that there is no other safe or economical method of disposal. Such permit will be for a specified period and shall contain such conditions as are deemed necessary in the interest of health or safety. Such permit may be revoked if there is: a failure to comply with its conditions; a violation of law in connection with the burning, or an apparent serious threat to health or

safety as a result of the burning. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.

**Historical Note**

Sec. filed Aug. 21, 1963; repealed, new filed: April 10, 1969; Dec. 24, 1970; renum. 381.3, Title 9, filed Sept. 1971; new filed April 28, 1972; repealed, new filed May 17, 1972 eff. 30 days after filing. Substituted new (c).

**215.4-215.5**

**Historical Note**

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**215.6-215.11**

**Historical Note**