

ISSUE PAPER SERIES

Open Burning Regulations in New York State

Updated January 2018



NEW YORK STATE TUG HILL COMMISSION

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The Tug Hill Commission Technical and Issue Paper Series are designed to help local officials and citizens in the Tug Hill region and other rural parts of New York State. The Technical Paper Series provides guidance on procedures based on questions frequently received by the Commission. The Issue Paper Series provides background on key issues facing the region without taking advocacy positions. Other papers in each series are available from the Tug Hill Commission. Please call us or visit our website for more information.



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Open Burning Regulations in New York State

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Open Burning Regulations in New York State

Introduction

New regulations on open burning went into effect on October 14, 2009. Many communities have had questions regarding these new NYS Department of Environmental Conservation (DEC) regulations. This paper covers the main points of the new law. For more information, go to the DEC website: <http://www.dec.ny.gov/chemical/32064.html>. In addition, the complete law can be found here: [https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=Ib49ce980b5a011dda0a4e17826ebc834&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=Ib49ce980b5a011dda0a4e17826ebc834&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

Open burning of residential waste in all communities statewide is now prohibited, regardless of population size, with exceptions for burning tree limbs and branches at limited times and other certain circumstances (detailed below). Prior to the new regulation, open burning of residential wastes in any city, village or town with a population of 20,000 or more had been prohibited since 1972. The new and updated ban includes burning leaves, burning waste in burn barrels and burn piles.

Why Is There A Burn Ban?

The reason for the ban on burning household trash is twofold: Burning waste can release potentially dangerous compounds to the atmosphere and open burning is the largest single cause of wildfires in New York State. A map of the state showing the level of fire danger by region can be found at <http://www.dec.ny.gov/lands/68329.html>. According to the DEC, burning trash emits pollutants that can be harmful to our health and harmful to the environment. In the past, burning garbage was not as dangerous because trash in the past did not contain such things as plastics, foils, batteries, or paper bleached with chlorine. For more information about the problems with open burning, go to <http://www.dec.ny.gov/chemical/32060.html>.

Exceptions to the Burn Ban

The regulation bans all open burning except for the following:

- On-site burning of limbs with attached leaves and branches between May 15th and the following March 15th in any town with a total population less than 20,000.
- The limbs must be less than 6 inches in diameter and 8 feet in length (also referred to as brush). However, this is not allowed from March 16 through May 14 due to the increased risk of wildfires.
- Barbecue grills, maple sugar arches and similar outdoor cooking devices.
- Small cooking fires and campfires less than 3 feet in height and 4 feet in length, width or diameter
- Fires cannot be left unattended and must be fully extinguished.
- Only charcoal or clean, dry, untreated or unpainted wood can be burned.
- On-site burning of organic agricultural wastes, but not pesticides, plastics or other non-organic material.

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- Liquid petroleum fueled smudge pots to prevent frost damage to crops.
- Ceremonial or celebratory bonfires.
- Disposal of a flag or religious item.
- Burning on an emergency basis of explosive or other dangerous or contraband by police, etc.
- Prescribed burns performed according to state regulations.
- Fire training with some restrictions on the use of acquired structures.
- Individual open fires to control plant and animal disease outbreaks as approved by DEC upon the request by the Commissioner of Agriculture and Markets.
- Open fires as necessary to control invasive plant and insect species.

Fire Towns

Towns totally or partially within the boundaries of the Adirondack and Catskill Parks are designated fire towns under Environmental Conservation Law. The law prohibits open burning in fire towns without a written permit from the DEC. On-site open burning of limbs and branches allowed under the new regulation still requires a permit if it occurs in a fire town. In the Tug Hill Region, this applies only to the Towns of Forestport and Remsen in Oneida County. To find out if your town is a fire town and/or to obtain a permit, contact your local DEC Forest Ranger.

Questions and Answers

Below are some common questions and answers pertaining to the open burning regulations. A complete list of questions and answers, plus short video about the burn ban, can be found on the DEC website at <http://www.dec.ny.gov/chemical/58519.html>.

1. *Do the new regulations on open burning make burning household trash in burn barrels or piles illegal?*

Yes. Burning trash is now prohibited statewide in all cases. The state's existing incinerator rule already prohibits burning household trash in wood stoves, fireplaces, and outdoor wood boilers.

2. *Can I burn leaves if I live in a rural area?*

No, burning leaves is banned in New York State.

3. *The rule says firewood must be untreated, some firewood is heat-treated, is that allowed?*

Some firewood is heat treated (kiln dried) to control invasive insect species if it is to be transported over 50 miles. Heat treated firewood is not intended to be prohibited. However, the burning of chemically treated wood such as pressure-treated lumber and plywood is prohibited.

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4. *Can agricultural wastes be burned?*

Yes, organic agricultural wastes may be burned on-site where they are grown or generated including brush and wood produced by clearing fields and other activities. The fire must be located on contiguous agricultural land larger than 5 acres, and the materials capable of being fully burned within 24 hours. The burning of pesticides, plastics or other non-organic material is prohibited.

5. *Can prescribed burns be performed?*

Yes. Prescribed burns, the burning of forest land to achieve a vegetative or wildlife management goal, can be performed but only in accordance with DEC regulations. Check with your regional DEC office.

6. *Are fire training burning activities allowed?*

Yes, with some restrictions on the use of acquired structures and in accordance with guidance from NYS Dept. of State's Office of Fire Prevention and Control. The Fire Services Bureau may be reached at 518-474-6746.

7. *Can a town prohibit open burning that the state allows?*

Yes, towns, villages, cities and counties can pass ordinances that are stricter than, and not inconsistent with, the open fires regulations. You should check with local authorities to find out if local law requires a permit or prohibits open fires.

8. *Can explosives, or other dangerous contraband, be burned?*

Yes, on an emergency basis by police or other public safety organizations only.

9. *Can brush piles be burned at transfer sites?*

No, the practice of burning large piles of brush collected from local residents at town or county transfer sites is prohibited. The individual landowners in small towns may burn their brush on site as discussed under question 2 above. Downed limbs and branches generated at a transfer site are also allowed to be burned on site with the same restrictions.

10. *Where should I call to report an illegal open fire?*

To report poachers and polluters, call 1-844-DEC-ECOS (1-844-332-3267).