CHAPTER 33.1-15-04
OPEN BURNING RESTRICTIONS

Section
33.1-15-04-01 Refuse Burning Restrictions
33.1-15-04-02 Permissible Open Burning

33.1-15-04-01. Refuse burning restrictions.

No person may cause, conduct, or permit open burning of refuse, trade waste, or other combustible material, except as provided for in section 33.1-15-04-02 or 33.1-15-10-02, and no person may conduct, cause, or permit the conduct of a salvage operation by open burning.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 21

33.1-15-04-02. Permissible open burning.

The open burning of refuse or other combustible material may be conducted as specified in this section if the burning is not prohibited by, and is conducted in compliance with, other applicable laws, ordinances, and regulations. Burning is prohibited if the fire index is in the extreme category as issued by the national weather service or if a burning ban is declared by state or local officials. The authority to conduct open burning under this section does not exempt or excuse a person from the consequences, damages, or injuries that may result therefrom.

1. The following types of burning are specifically authorized but are subject to the conditions listed in subsection 2 as well as any condition included as part of this subsection:

   a. Fires purposely set for the instruction and training of public and industrial firefighting personnel.

   b. Fires set for the elimination of a fire hazard that cannot be abated by any other means when authorized by the department or its designee.

   c. Fires set for the removal of dangerous or hazardous material, where there is no other practical or lawful method of disposal and burning is approved in advance by the department. Where there is imminent danger to human health or safety and where there is no other practical or lawful method of disposal, burning may be initiated without prior notice to the department, provided notice is furnished as soon as practical.

   d. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, or for outdoor preparation of food.

   e. Fires purposely set to forest or rangelands for a specific reason in the management of forest, rangeland, or game in accordance with practices recommended by state or federal agencies, as appropriate, and the burning is approved in advance by the department. The state or federal agency shall, upon request by the department, submit an annual report that estimates the number of acres burned, the fuel loading, and the amount of emissions.

   f. The burning of trees, brush, grass, wood, and other vegetable matter in the clearing of land, right-of-way maintenance operations, and agricultural crop burning.

   g. The burning of refuse and other combustible materials generated in the operation of a domestic household if the following conditions are met:

(1) No collection and disposal service is required or directed by a municipality or other government entity.

(2) The material to be burned is from a building accommodating no more than one family.

(3) The burning is conducted on the property on which the waste is generated.

h. The burning of liquid hydrocarbons that are spilled or lost as a result of pipeline breaks or other accidents involving the transportation of such materials or which are generated as wastes as the result of oil exploration, development, production, refining, or processing operations if the following conditions are met:

(1) The material cannot be practicably recovered or otherwise lawfully disposed of in some other manner.

(2) The burning must be approved in advance by the department, except as provided in subdivision c.

2. The following conditions apply to all types of permissible burning listed in subsection 1.

a. Air pollution, as defined in section 33.1-15-01-04, will not be created.

b. The burning must not be conducted upwind of, or in proximity to, an occupied building such that the ambient air of such occupied building may be adversely affected by the air contaminants being emitted.

c. Care must be used to minimize the amount of dirt on the material being burned and the material must be dry enough to burn cleanly.

d. Oils, rubber, and other materials that produce unreasonable amounts of air contaminants may not be burned.

e. The burning may be conducted only when meteorological conditions favor smoke dispersion and air mixing.

f. The burning must not be conducted adjacent to any highway or public road so as to create a traffic hazard.

g. The burning must not be conducted adjacent to any operational military, commercial, county, municipal, or private airport or landing strip in such a manner as to create a hazard.

h. Except in an emergency, burning may not be conducted in such proximity of any class I area, as defined in chapter 33.1-15-15, that the ambient air of such area is adversely impacted.

i. Except in an emergency, the visibility of any class I area cannot be adversely impacted as defined in chapter 33.1-15-19.

j. Burning activities must be attended and supervised at all times burning is in progress.

k. If state or local fire officials determine conditions to be unsafe for open burning, such burning must cease until conditions are deemed safe by such officials.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
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