**R307. Environmental Quality, Air Quality.**

**R307-202. Emission Standards: General Burning.**

**R307-202-1. Applicability.**

Sections R307-202-4 through R307-202-8 apply to general burning within incorporated community under the authority of county or municipal fire authority.

**R307-202-2. Definitions.**

The following additional definitions apply only to Rule R307-202.

"Attainment areas" means any area that meets the national primary and secondary ambient air quality standard (NAAQS) for the pollutant.

"County or municipal fire authority" means the public official so designated with the responsibility, authority, and training to protect people, property, and the environment from fire, within their respective area of jurisdiction.

"Federal Class I Area" means an area that consists of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and any international parks that were in existence on August 7, 1977. See Clean Air Act Section 162(a).

"Fire hazard" means a hazardous condition involving combustible, flammable, or explosive material that represents a substantial threat to life or property if not immediately abated, as declared by the county or municipal fire authority.

"Maintenance Area" as defined in Section R307-101-2, means an area that is subject to the provisions of a maintenance plan that is included in the Utah State Implementation Plan, and that has been redesignated by EPA from nonattainment to attainment of any NAAQS.

"Native American spiritual advisor" means a person who leads, instructs, or facilitates a Native American religious ceremony or service, or provides religious counseling, is an enrolled member of a federally recognized Native American tribe, and is recognized as a spiritual advisor by a federally recognized Native American tribe. "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

"Nonattainment Area" means an area designated by the Environmental Protection Agency as nonattainment under Subsection 107(d)(1)(A)(i), Clean Air Act for any NAAQS. The designations for Utah are listed in 40 CFR 81.345.

**R307-202-3. Exclusions.**

As provided in Section 19-2-114, the requirements of Rule R307-202 are not applicable to:

(1) except for areas zoned as residential, burning incident to horticultural or agricultural operations of:

(a) prunings from trees, bushes, and plants; and

(b) dead or diseased trees, bushes, and plants, including stubble;

(2) burning of weed growth along ditch banks for clearing these ditches for irrigation purposes;

(3) controlled heating of orchards or other crops during the frost season to lessen the chances of their being frozen so long as the emissions from this heating do not cause or contribute to an exceedance of any NAAQS and is consistent with the federally approved State Implementation Plan;

(4) the controlled burning of not more than two structures per year by an organized and operating fire department for training fire service personnel when the National Weather Service clearing index is above 500, see also Subsection 11-7-1(2)(a); and

(5) ceremonial burning is excluded from Subsection R307-202-4(2) when conducted by a Native American spiritual advisor.

**R307-202-4. Prohibitions.**

(1) No open burning may be done at sites used for disposal of community trash, garbage, and other wastes.

(2) No person may burn under this rule when the director issues a public announcement under Rule R307-302. The director shall distribute the announcement to the local media notifying the public that a mandatory no-burn period is in effect for the area where the burning is to occur.

**R307-202-5. General Requirements.**

(1) Except as otherwise provided in this rule, no person may set or use an open outdoor fire for the disposal or burning of:

(a) petroleum wastes;

(b) demolition or construction debris;

(c) rubbish;

(d) garbage or vegetation;

(e) tires;

(f) tar;

(g) trees;

(h) wood waste;

(i) other combustible or flammable solid;

(j) liquid or gaseous waste; or

(k) for metal salvage or burning of motor vehicle bodies.

(2) The county or municipal fire authority shall approve burning based on the predicted meteorological conditions and whether the emissions would impact the health and welfare of the public or cause or contribute to an exceedance of any NAAQS.

(3) Nothing in this regulation may be construed as relieving any person conducting open burning from meeting the requirements of any applicable federal, state, or local requirements concerning disposal of any combustible materials.

(4) The county or municipal fire authority that approves any open burning permit shall retain a copy of each permit issued for one year.

**R307-202-6. Open Burning - Without Permit.**

The following types of open burning do not require a permit when not prohibited by other local, state, or federal laws and regulations, when it does not create a nuisance, as defined in Section 76-10-803, and does not impact the health and welfare of the public:

(1) devices for the primary purpose of preparing food including outdoor grills and fireplaces;

(2) campfires and fires used solely for recreational purposes where the fires are under control of a responsible person and the combustible material is clean, dry, wood or charcoal; and

(3) indoor fireplaces and residential solid fuel burning devices except as provided in Section R307-302-2.

**R307-202-7. Open Burning - With Permit.**

(1) No person may knowingly conduct open burning unless the open burning activities may be conducted without a permit pursuant to Section R307-202-6 or the person has a valid permit for burning on a specified date or period, issued by the county or municipal fire authority having jurisdiction in the area where the open burning shall take place.

(2) A permit applicant shall provide information as requested by the county or municipal fire authority. No permit or authorization may be deemed valid unless the issuing authority determines that the applicant has provided the required information.

(3) Persons seeking an open burning permit shall submit to the county or municipal fire authority an application on a form provided by the director for each separate burn.

(4) A permit shall be valid only on the lands specified on the permit.

(5) No material may be burned unless it is clearly described and quantified as material to be burned on a valid permit.

(6) No burning may be conducted contrary to the conditions specified on the permit.

(7) Any permit issued by a county or municipal fire authority is subject to the local, state, and federal rules and regulations.

(8) Open burning is authorized by the issuance of a permit, as stipulated within this rule, for specification in Subsection R307-202-7(10). These permits can only be issued when not prohibited by other local, state, or federal laws and regulations and when a nuisance as defined in Section 76-10-803 is not created and does not impact the health and welfare of the public.

(9) Except as provided in Subsection R307-202-7(10)(f)(ii), individual permits, as stipulated within this rule, for the types of burning listed in Subsection R307-202-7(10) may be issued by a county or municipal fire authority when the clearing index is 500 or greater. When the clearing index is below 500, any permits issued for that day shall be void until further notice from the county or municipal fire authority. Additionally, anyone burning on the day when the clearing index is below 500, or is found to be violating any part of this rule, shall be liable for a fine in accordance with Rule R307-130.

(10) The following include types of open burning for which a permit may be granted:

(a) except in nonattainment and maintenance areas, open burning of tree cuttings and slash in forest areas where the cuttings accrue from pulping, lumbering, and similar operations, but excluding prescribed burning practices as cited in Rule R307-240, waste from sawmill operations including sawdust and scrap lumber;

(b) open burning of trees and brush within railroad rights-of-way, provided that dirt is removed from stumps before burning, and that tires, oil more dense than #2 fuel oil, tar, or other materials which can cause severe air pollution, are not present in the materials to be burned, and are not used to start fires or to keep fires burning;

(c) open burning of a fire hazard that a county or municipal fire authority determines cannot be abated by any other viable option;

(d) open burning of highly explosive materials when a county or municipal fire authority, law enforcement agency, or governmental agency having jurisdiction determines that onsite burning or detonation in place is the only reasonably available method for safely disposing of the material;

(e) open burning for the disposal of contraband in the possession of public law enforcement personnel provided they demonstrate to the county or municipal fire authority that open burning is the only reasonably available method for safely disposing of the material;

(f) open burning of clippings, bushes, plants, and pruning's from trees incident to property clean-up activities, including residential cleanup, provided that the following conditions have been met:

(i) within the counties designated as nonattainment and maintenance areas, the county or municipal fire authority may issue a permit between April 1 and May 31 when the clearing index is 500 or greater. The county or municipal fire authority may issue a permit between September 15 to October 31 for the burning to occur when the state forester has approved the burning window under Section 65A-8-211 and the clearing index is 500 or greater;

(ii) in attainment areas, the county or municipal fire authority may issue a permit between November 1 and March 31 for burning to occur when the clearing index is 250 or greater. Additionally, in attainment areas, the county or municipal fire authority may issue a permit between April 1 and May 31 for burning to occur when the clearing index is 500 or greater. The county or municipal fire authority may issue a permit between September 15 and October 31 for burning to occur when the state forester has approved the burning window under Section 65A-8-211 and the clearing index is 500 or greater;

(iii) burnings occur in accordance with state and federal requirements;

(iv) materials to be burned are thoroughly dry; and

(v) no trash, rubbish, tires, or oil are included in the material to be burned, used to start fires, or used to keep fires burning.

(g) except for nonattainment and maintenance areas, the director may grant a permit for types of open burning not specified in Subsection R307-202-7(3) on written application if the director finds that the burning is consistent with the federally approved State Implementation Plan and does not cause or contribute to an exceedance of any NAAQS.

(i) This permit may be granted once the director has reviewed the written application with the requirements and criteria found within this rule in Section R307-202-7.

(ii) Open burning permit criteria shall include the following requirements.

(A) The director or the county or municipal fire authority shall consider the following factors in determining whether, and upon what conditions, to issue an open burning permit:

(I) the location and proximity of the proposed burning to any building, other structures, the public, and federal Class I areas that might be impacted by the smoke and emissions from the burn;

(II) burning shall only be conducted when the clearing index is 500 or above; and

(III) whether there is any practical alternative method for the disposal of the material to be burned.

(B) Methods to minimize emissions and smoke impacts may include:

(I) the use of clean auxiliary fuel;

(II) drying the material before ignition; and

(III) separation for alternative disposal of materials that produce higher levels of emissions and smoke during the combustion process.

(C) Open burning permits are not valid during periods when the clearing index is below 500 or publicly announced air pollution emergencies or alerts have been declared in the area of the proposed burn.

(D) For burns of piled material, any piles shall be reasonably dry and free of dirt.

(E) Open burns shall be supervised by a responsible person who shall notify the local fire department and have available, either on-site or by the local fire department, the means to suppress the burn if the fire does not comply with the terms and conditions of the permit.

(F) Any open burning operations shall be subject to inspection by the director or county or municipal fire authority. The permittee shall maintain at the burn site the original or a copy of the permit that shall be made available without unreasonable delay to the inspector.

(G) If at any time the director or the county or municipal fire authority granting the permit determines that the permittee has not complied with any term or condition of the permit, the permit is subject to partial or complete suspension, revocation, or imposition of additional conditions. Any burning activity subject to the permit shall be terminated immediately upon notice of suspension or revocation. In addition to suspension or revocation of the permit, the director or county or municipal fire authority may take any other enforcement action authorized under state or local law.

**R307-202-8. Special Conditions.**

(1) Open burning for special purposes or under unusual or emergency circumstances may be approved by the director if it is consistent with the federally approved State Implementation Plan and does not cause or contribute to an exceedance of any NAAQS.

(2) This permit may be granted once the director has reviewed the written application with the requirements and criteria in Section R307-202-7.

**KEY: air pollution, open burning, fire authority**

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**Authorizing, and Implemented or Interpreted Law: 19-2-104; 11-7-1(2)(a); 65A-8-211; 76-10-803**