

1 Pollution Control Agency

2 Division of Air Quality

3

4 Adopted Permanent Rules Relating to Open Burning Restrictions  
5 and Permitting Requirements

6

7 Rules as Adopted

8 OPEN BURNING RESTRICTIONS AND PERMITTING REQUIREMENTS

9 7005.0705 DEFINITIONS.

10 Subpart 1. Scope. As used in parts 7005.0705 to 7005.0815  
11 the terms defined in this part have the meanings given.

12 Subp. 2. Agency. "Agency" means the Minnesota Pollution  
13 Control Agency.

14 Subp. 3. Commissioner. "Commissioner" means the  
15 commissioner of the Minnesota Pollution Control Agency.

16 Subp. 4. Delegated authority. "Delegated authority" means  
17 a town, home rule charter or statutory city or metropolitan  
18 county as defined in Minnesota Statutes, section 473.121,  
19 subdivision 4, authorized by the commissioner to issue open  
20 burning permits under part 7005.0767.

21 Subp. 5. Incorporated land. "Incorporated land" means  
22 land within a home rule charter or statutory city.

23 Subp. 6. Land used for farming. "Land used for farming"  
24 means land that is in agricultural use as defined in Minnesota  
25 Statutes, section 17.81.

26 Subp. 7. Local authority. "Local authority" means a local  
27 fire chief, fire marshal, fire warden, or local governmental  
28 official.

29 Subp. 7 8. Nonattainment area. "Nonattainment area" means  
30 a geographic region that has been:

31 A. designated by the agency as violating a state  
32 ambient air quality standard; or

33 B. designated by the United States Environmental  
34 Protection Agency as violating a national ambient air quality  
35 standard in Code of Federal Regulations, title 40, section

1 81.324, as amended.

2 Subp. 8 9. **Open burning.** "Open burning" means the burning  
3 of any matter if the resultant combustion products are emitted  
4 directly to the atmosphere without passing through a stack,  
5 duct, or chimney.

6 Subp. 9 10. **Owner or operator.** "Owner" or "operator"  
7 means a person who owns, leases, operates, controls, or  
8 supervises an open burning site, or who conducts open burning.

9 Subp. 11. Practical. "Practical" means technically  
10 feasible, available within the general area where the material  
11 to be burned is located, and available at a cost that is not  
12 prohibitive for most users.

13 Subp. ~~10~~ 12. **Solid waste.** "Solid waste" has the meaning  
14 given it in Minnesota Statutes, section 116.06, subdivision 10.

15 7005.0715 OPEN BURNING RESTRICTIONS.

16 Subpart 1. **Open burning without a permit.** Except as  
17 provided in parts 7005.0785 and 7005.0795, open burning without  
18 ~~a~~ an agency permit is allowed only on unincorporated land in  
19 attainment areas, and only if the owner or operator conducts the  
20 burning for the purposes described in subpart 3, according to  
21 the conditions in subpart 4, parts 7005.0725, 7005.0775, and  
22 7005.0805, and prior notice has been given to the local  
23 authority.

24 Subp. 2. **Open burning with a permit.** Owners or operators  
25 of permanent tree and brush open burning sites must obtain  
26 permits under part 7005.0735, and are subject to the  
27 requirements of subpart 4 and parts 7005.0725, 7005.0735,  
28 7005.0745, 7005.0755, 7005.0775, 7005.0805, and 7005.0815.  
29 Owners or operators who conduct open burning for the instruction  
30 and training of firefighters must obtain permits under part  
31 7005.0735, and are subject to the requirements of part  
32 7005.0725, except as otherwise provided in the permit issued by  
33 the commissioner, and parts 7005.0735, 7005.0745, 7005.0755,  
34 7005.0766, 7005.0775, and 7005.0805. Owners or operators who  
35 conduct, cause, or permit open burning on incorporated land or

1 in a nonattainment area must obtain permits under part  
2 7005.0735, and are subject to the requirements of subpart 3 and  
3 parts 7005.0725, 7005.0735, 7005.0745, 7005.0755, and  
4 7005.0805. Owners or operators who conduct, cause, or permit  
5 open burning in forest areas or on forest land as defined in  
6 Minnesota Statutes, section 88.01, subdivisions 6 and 7, must  
7 obtain permits from the Minnesota Department of Natural  
8 Resources if a permit is required by Minnesota Statutes,  
9 sections 88.16 and 88.17.

10 Subp. 3. Purposes for burning. Open burning is allowed if  
11 conducted for the following purposes:

12 A. elimination of fire or health hazards that cannot  
13 be abated by any other practical means;

14 B. disposal of vegetative matter for purposes of  
15 managing forests, prairies, or wildlife habitats;

16 C. ground thawing for utility repair and  
17 construction;

18 D. disposal of trees, brush, grass, and other  
19 vegetative matter in the development and maintenance of land and  
20 rights-of-way where chipping, composting, or other alternative  
21 methods are not practical;

22 E. ~~activities-in-accordance-with-Department-of~~  
23 ~~Agriculture-practices~~ consistent with Minnesota Statutes,  
24 section 18.024, the disposal of diseased shade trees as  
25 described in parts 1505.0230 and 1505.0320~~-and-Minnesota~~  
26 ~~Statutes~~~~-section-19-56~~; or

27 F. disposal of diseased or infested nursery stock,  
28 diseased bee hives under Minnesota Statutes, section 19.56, or  
29 dunnage as required under part 1505.1430; or

30 G. the disposal of burnable building material such as  
31 unpainted or untreated lumber, wood shakes, or other unpainted  
32 or untreated wood products generated by construction,  
33 where recycling, reuse, chipping, or other alternative disposal  
34 methods are not practical.

35 Subp. 4. Conditions. Open burning must be conducted  
36 according to the requirements in items A to ~~F~~ J.

1           A. The prevailing wind at the time of the burning  
2 must be away from nearby residences and occupied buildings.  
3 ~~Wind-speed-must-not-exceed-15-miles-per-hour.~~

4           B. The burning must be conducted ~~at-least-300-feet~~  
5 ~~from-a-highway-or-public-road~~ as far away from a road as  
6 possible and controlled so that a traffic hazard is not created.

7           C. The burning must ~~not~~ be ~~located-within-600-feet-of~~  
8 ~~an-occupied-building-or-residence-other-than-those-located-on~~  
9 ~~the-property-on-which-the-burning-is-conducted-unless-written~~  
10 ~~permission-is-obtained-from-these-occupants-within-the-600-feet~~  
11 conducted consistent with article 11.101(b) of the Minnesota  
12 Uniform Fire Code as adopted in part 7510.3120.

13           D. The burning must not be conducted within one mile  
14 of an airport or landing strip unless the affected airport or  
15 landing strip is notified prior to burning.

16           E. The burning must not be conducted during the  
17 duration of an agency-declared air pollution ~~episode~~ alert,  
18 warning, emergency, or significant harm episode as outlined in  
19 parts 7005.2950 to 7005.3006; Minnesota Statutes, section  
20 116.11; Code of Federal Regulations, title 40, part 51, subpart  
21 H; or Code of Federal Regulations, title 40, section 52.1220  
22 (c)(1).

23           F. The person conducting the open burning shall give  
24 notice to the local authority and to the local Department of  
25 Natural Resources representative ~~and-the-local-authority~~ when  
26 within an area under Department of Natural Resources  
27 jurisdiction prior to any open burning. The notice must include  
28 the time and location of the fire.

29           G. Propane gas torches or other clean gas burning  
30 devices causing minimal pollution must be used to start the  
31 burning.

32           H. The person conducting the open burning must be  
33 present at the burn site from the commencement of the burning  
34 until the fire is completely extinguished and if a permit is  
35 required shall have a copy of the permit at the burning site at  
36 all times.

1 I. Fires must not be allowed to smolder with no flame  
2 present, except when conducted for the purpose of managing  
3 forests, prairies, or wildlife habitats.

4 J. Fires set or allowed to burn for the purpose of  
5 managing forests, prairies, or wildlife habitats must be managed  
6 according to a prescribed burn plan approved by the managing  
7 agency.

8 7005.0725 OPEN BURNING PROHIBITIONS.

9 Subpart 1. Prohibited materials. No person shall conduct,  
10 cause, or permit open burning of oils, rubber, plastics,  
11 chemically treated materials, or other materials which produce  
12 excessive or noxious smoke such as tires, railroad ties,  
13 chemically treated lumber, composite shingles, tar paper,  
14 insulation, composition board, sheetrock, wiring, paint, or  
15 paint filters.

16 Subp. 2. Hazardous wastes. No person shall conduct,  
17 cause, or permit open burning of hazardous waste as classified  
18 in chapter 7045 and Minnesota Statutes, section 116.06,  
19 subdivision 13, except as specifically provided in part  
20 7045.0542, subpart 9.

21 Subp. 3. Industrial solid waste. No person shall conduct,  
22 cause, or permit open burning of solid waste generated from an  
23 industrial or manufacturing process or from a service or  
24 commercial establishment.

25 Subp. 4. Demolition debris. No person shall conduct,  
26 cause, or permit open burning of burnable building material  
27 generated from demolition of commercial or institutional  
28 structures. A farm building is not a commercial structure.

29 Subp. 5. Salvage operations. No person shall conduct,  
30 cause, or permit salvage operations by open burning.

31 Subp. 6. Motor vehicles. No person shall conduct, cause,  
32 or permit the processing of motor vehicles ~~or scrap metals~~ by  
33 open burning.

34 Subp. 7. Garbage. No person shall conduct, cause, or  
35 permit open burning of discarded material resulting from the

1 handling, processing, storage, preparation, serving, or  
2 consumption of food, unless specifically allowed under part  
3 7005.0795.

4 Subp. 8. **Burning ban.** No person shall conduct, cause, or  
5 permit open burning during a burning ban put into effect by a  
6 local authority, county, or a state agency.

7 7005.0735 PERMITS REQUIRED.

8 Subpart 1. **Permits required.** No person shall conduct,  
9 cause, or permit open burning on incorporated land or in a  
10 nonattainment area without obtaining an open burning permit from  
11 the commissioner or a delegated authority under part 7005.0767.  
12 No person shall conduct, cause, or permit open burning at a  
13 permanent tree and brush open burning site as described in part  
14 7005.0815 or for instruction and training of firefighters as  
15 described in part 7005.0766 without obtaining an open burning  
16 permit from the commissioner.

17 Subp. 2. **Permit conditions.** The commissioner or delegated  
18 authority shall issue an open burning permit if the commissioner  
19 or delegated authority finds that the burning is for one of the  
20 purposes in part 7005.0715, subpart 3, 7005.0766, or 7005.0815,  
21 and that the burning will be conducted according to the  
22 requirements of parts 7005.0705 to 7005.0815. The commissioner  
23 or delegated authority may impose other reasonable conditions in  
24 the permit on the conduct of the open burning if needed for the  
25 prevention of pollution or nuisance conditions. The burning  
26 shall be conducted during the dates established in the permit  
27 and conducted under the conditions of the permit.

28 Subp. 3. **Application process.** In areas where there is no  
29 delegated authority, the applicant shall obtain a permit  
30 application from the commissioner. After completing the  
31 application, the applicant shall submit the application to the  
32 local authority for its approval. Following the local authority  
33 approval, the application shall be submitted to the commissioner  
34 for a decision whether to issue a permit.

35 In areas where there is a delegated authority, the

1 applicant shall obtain a permit application from the delegated  
 2 authority. After completing the application, the applicant  
 3 shall submit the application to the local authority for its  
 4 approval. Following the local authority approval, the  
 5 application shall be submitted to the delegated authority for a  
 6 decision whether to issue a permit.

7 The application process for permanent tree and brush open  
 8 burning sites is described in part 7005.0815, subparts 7 and 8.

9 To obtain a permit for fire training, an application must  
 10 be submitted by the fire department or other entity seeking to  
 11 conduct fire training directly to the commissioner by May 15 of  
 12 each year. The application must describe the fire department's  
 13 or other entity's annual training plans and identify the  
 14 estimated number of structures that will need to be burned for  
 15 training purposes.

16 Subp. 4. Information requests. The commissioner or  
 17 delegated authority may request, and the applicant shall  
 18 provide, any information additional to that required in the  
 19 application form which the commissioner or delegated authority  
 20 needs to determine if the open burning can be conducted in  
 21 compliance with ~~all-applicable-rules~~ parts 7005.0705 to  
 22 7005.0815.

23 Subp. 5. Permittees. The permit application must be  
 24 signed by all owners and operators, and the commissioner or  
 25 delegated authority shall designate all owners and operators as  
 26 copermitees when issuing the permit.

27 7005.0745 PERMIT DENIAL.

28 The commissioner shall deny a permit application submitted  
 29 pursuant to parts 7005.0705 to 7005.0815 if:

30 A. a ~~reasonable~~ practical alternative method of  
 31 disposal of the material is available, such as chipping~~7~~ or  
 32 composting~~7-or-other-method~~;

33 B. the burning cannot be conducted according to the  
 34 conditions established in parts 7005.0705 to 7005.0815; or

35 C. a nuisance condition would result from the burning.

## 1 7005.0755 PERMIT REVOCATION.

2 A permit is subject to revocation by the commissioner, if:

3 A. a ~~reasonable~~ practical method of disposal of the  
4 material is found;

5 B. a fire hazard exists or develops during the course  
6 of the burning;

7 C. the permittee violates parts 7005.0705 to  
8 7005.0815; or

9 D. any of the conditions of the permit are violated;  
10 or

11 E. a nuisance condition has resulted from the burning.

## 12 7005.0765 DEPARTMENT OF NATURAL RESOURCES JURISDICTION.

13 Designated Department of Natural Resources ~~forest~~ officers  
14 or fire wardens are authorized to accept applications and issue,  
15 deny, enforce, and revoke open burning permits on behalf of the  
16 commissioner for locations within their jurisdiction.

## 17 7005.0766 FIRE TRAINING.

18 Subpart 1. Structure burn training. Except for owners or  
19 operators conducting fire training in specialized industrial  
20 settings pursuant to applicable federal, state, or local  
21 standards, owners or operators conducting open burning for the  
22 purpose of instruction and training of firefighters with regard  
23 to structures must follow the techniques described in Structural  
24 Burn Training Procedures for the Minnesota Technical College  
25 System ~~used-in-the-training-of-firefighting-personnel-at~~  
26 ~~Minnesota-vocational-technical-colleges-or-other-qualified~~  
27 ~~training-facilities.~~ This document is written and published by  
28 the Regional State Fire Training Coordinator Staff, June 1987,  
29 and is incorporated by reference. It is not subject to frequent  
30 change. This publication is available at the Minnesota State  
31 Law Library and at the Fire Information, Research, and Education  
32 Center, 550 Cedar Street, Saint Paul, Minnesota 55101.

33 Subp. 2. Restrictions. Flammable or combustible liquids  
34 shall not be burned during fire training unless liquid fuels or



1 arson investigation training is being conducted. The use of  
2 small amounts of uncontaminated diesel fuel or kerosene for  
3 ignition of live burn fires is not prohibited.

4 Subp. 3. Liquid fuels training. Fire training shall be  
5 conducted according to the conditions in items A to C when  
6 liquid fuels are burned.

7 A. The fuel must be completely contained within a  
8 lined structure, such as a cement- or metal-lined container.

9 B. The amount of fuel to be burned must be the  
10 minimum amount necessary to conduct the training.

11 C. If fuel is released from the lined structure, or  
12 if soil or groundwater contamination is suspected to have  
13 resulted from the burn, the spill must be reported and recovered  
14 as required under Minnesota Statutes, section 115.061.

15 Subp. 4. Conditions. Fire training must be conducted  
16 according to parts 7005.0715, subpart 4, items E to H, and  
17 7005.0725, except as specifically authorized by the permit  
18 issued by the commissioner.

19 7005.0767 DELEGATED AUTHORITY.

20 Subpart 1. Delegated authority to issue permits. A town  
21 or home rule charter or statutory city or metropolitan county  
22 may issue permits for open burning other than for fire training  
23 or permanent tree and brush burning conducted according to parts  
24 7005.0705 to 7005.0805, if delegated authority is obtained as  
25 provided in subpart 2. Permits must be issued on a form  
26 approved by the commissioner and records must be maintained of  
27 all open burning permits issued.

28 Subp. 2. Obtaining authority. To obtain authority to  
29 issue open burning permits, a town or home rule charter or  
30 statutory city or metropolitan county must adopt parts 7005.0705  
31 to 7005.0805 as a local ordinance governing open burning. After  
32 adopting this ordinance, the town or home rule charter or  
33 statutory city or metropolitan county must submit the following  
34 to the commissioner:

35 A. a written statement requesting the authorization;

1 B. the name of the person or persons authorized to  
 2 issue the permits on behalf of the town or home rule charter or  
 3 statutory city or metropolitan county and a certified copy of  
 4 the motion passed by the town or home rule charter or statutory  
 5 city or metropolitan county designating such person or persons;  
 6 and

7 C. a copy of the local ordinance adopting parts  
 8 7005.0705 to 7005.0805.

9 Subp. 3. **Revocation of delegated authority.** The  
 10 commissioner shall revoke the authority to issue open burning  
 11 permits if:

12 A. permits are issued in violation of parts 7005.0705  
 13 to 7005.0805;

14 B. permits are issued on forms that have not been  
 15 approved by the commissioner;

16 C. permits are issued by persons who have not been  
 17 authorized by the delegated authority or whose names have not  
 18 been provided to the commissioner;

19 D. the delegated authority fails to maintain records  
 20 of open burning permits issued; or

21 E. the delegated authority requests removal of the  
 22 authority.

23 7005.0775 COMPLIANCE WITH OTHER LAWS.

24 Open burning must be conducted according to parts 7005.0705  
 25 to 7005.0815, local ordinances, state fire marshal rules, and  
 26 statutes and rules of other state agencies, regardless of  
 27 whether a permit is required by parts 7005.0705 to 7005.0815.  
 28 Nothing in parts 7005.0705 to 7005.0815 shall be construed to  
 29 allow open burning in those areas in which open burning is  
 30 prohibited by other laws, rules, regulations, or ordinances  
 31 which are more restrictive.

32 7005.0785 RECREATIONAL FIRES.

33 Fires set for recreational, ceremonial, food preparation,  
 34 or social purposes are allowed and do not require an agency  
 35 permit. ~~Fires~~ The material to be burned must be limited to a

1 pile no larger than three feet in diameter by three feet high.  
2 Only unpainted and untreated wood, coal, or charcoal may be  
3 burned.

4 7005.0795 OPEN BURNING ON FARMS.

5 A person who operates land used for farming may burn solid  
6 waste generated from the person's household or as part of the  
7 person's farming operation without an agency permit, as provided  
8 by Minnesota Statutes, section 17.135. The burning of the solid  
9 waste must comply with the conditions established in part  
10 7005.0715, subpart 4, the prohibitions established in part  
11 7005.0725, and the requirements of Minnesota Statutes, section  
12 17.135.

13 7005.0796 OPEN BURNING OF LEAVES.

14 A town or home rule charter or statutory city located  
15 outside the metropolitan area as defined in Minnesota Statutes,  
16 section 473.121, subdivision 2, by adoption of an ordinance, may  
17 permit open burning of dried leaves within the boundaries of the  
18 town or city, as provided by Minnesota Statutes, section  
19 116.082. The burning of dried leaves must comply with the  
20 conditions established in parts 7005.0715, subpart 4, 7005.0725,  
21 7005.0775, and 7005.0805.

22 7005.0805 LIABILITY.

23 The granting of an open burning permit or allowance of open  
24 burning without a permit under any provisions of parts 7005.0705  
25 to 7005.0815 does not excuse a person from consequences,  
26 damages, or injuries which may result from the open burning.

27 7005.0815 PERMANENT TREE AND BRUSH OPEN BURNING SITES.

28 Subpart 1. Permanent sites. The commissioner shall issue  
29 permits authorizing continuous use of a site for open burning  
30 following the procedures and subject to the conditions  
31 established in this part and parts 7005.0725, 7005.0735,  
32 7005.0745, 7005.0755, and 7005.0805.

33 Subp. 2. Tree and brush burning only. Only trees, tree  
34 trimmings, or brush shall be permitted to be burned at a

1 permanent open burning site.

2 Subp. 3. Alternatives to burning. Only trees, tree  
3 trimmings, or brush that cannot be disposed of by an alternative  
4 method such as chipping, composting, or other method, shall be  
5 permitted to be burned at a permanent open burning site.

6 Subp. 4. Location. A permanent open burning site must not  
7 be located within:

8 A. 1,000 feet of an occupied building unless written  
9 permission is obtained from the building owner and occupant;

10 B. 1,000 feet of a public roadway;

11 C. one mile of an airport or landing strip unless  
12 written permission is obtained from the affected airport or  
13 landing strip;

14 D. 300 feet of a stream, river, lake, or other water  
15 body unless berms or other measures are used to ensure that ash  
16 or organic material does not enter the water body; or

17 E. a wetland as defined in part 7035.0300, subpart  
18 119.

19 Subp. 5. Site operation. A permanent open burning site  
20 must be developed and operated according to items A to J.

21 A. A qualified attendant must be on duty at all times  
22 when the site is open for disposal of material to be burned and  
23 for the duration of any fire on the site.

24 B. Access to the site must be controlled through a  
25 gate that is locked when the attendant is not on duty.

26 C. A permanent sign indicating the times of  
27 operation, rates, the penalty for nonconforming dumping, and  
28 other pertinent information of use to the public must be posted  
29 at the site entrance.

30 D. Burning and ash storage areas must be designated  
31 and maintained.

32 E. Surface water drainage must be diverted around and  
33 away from the burning and ash storage areas.

34 F. Burning must be conducted according to the  
35 conditions in part 7005.0715, subpart 4, items A to E and G.

36 G. ~~Twenty-four-hour~~ Prior notice must be given to the

1 local authority of the time and duration of each burn.

2 H. Fugitive ash emissions must be controlled and ash  
3 residue must be collected periodically and disposed of in a  
4 permitted ~~sanitary-landfill~~ solid waste land disposal facility  
5 or other method allowed by applicable statutes and rules.

6 I. The fire must not be allowed to smolder with no  
7 flame present.

8 J. Fugitive dust emissions from access roads and the  
9 site must be controlled as required by part 7005.0550.

10 Subp. 6. **Site termination.** A permanent open burning site  
11 must be terminated in compliance with items A to D.

12 A. All unburned materials must be removed and  
13 disposed of ~~in-an-appropriate-manner~~ through burning at another  
14 permitted burnsite or by other method allowed by applicable  
15 statutes, rules, and ordinances.

16 B. All ash must be removed to a permitted ~~sanitary~~  
17 ~~landfill-or~~ solid waste land disposal facility or disposed of by  
18 other method allowed by applicable statutes, rules, and  
19 ~~rules~~ ordinances.

20 C. Areas affected by burning must be covered with  
21 soil and seeded to prevent erosion and to restore the site to a  
22 natural condition.

23 D. A sign must be posted informing the public that  
24 the site has been closed, and listing the closest disposal site  
25 alternative.

26 Subp. 7. **Application process.** Applicants for a permanent  
27 open burning site permit shall submit a complete application on  
28 a form provided by the commissioner. This application must be  
29 submitted at least 90 days before the date of the proposed  
30 operation of the permanent open burning site. The application  
31 must be submitted to the commissioner and must contain:

32 A. the name, address, and telephone number of all  
33 owners of the site proposed for use as the permanent open  
34 burning site;

35 B. if the operator for the proposed permanent open  
36 burning site is different from the owner, the name, address, and

1 telephone number of the operator;

2 C. a general description of the materials to be  
3 burned, including the source and estimated quantity;

4 D. a topographic or similarly detailed map of the  
5 site and surrounding area within a one mile circumference  
6 showing all structures that might be affected by the operation  
7 of the site; and

8 E. any other information relevant to the operation of  
9 the site, or as requested by the commissioner to determine if  
10 the site can be operated in compliance with ~~all-applicable-rules~~  
11 parts 7005.0705 to 7005.0815.

12 Subp. 8. Permittees. The permit application must be  
13 signed by all owners and operators of the proposed permanent  
14 open burning site, and the commissioner shall designate all  
15 owners and operators as copermittees when issuing the permit.

16 INSTRUCTION TO REVISOR. In the next edition of Minnesota Rules,  
17 the revisor shall change the reference from "parts 7005.0700 to  
18 7005.0820" to "parts 7005.0705 to 7005.0815" in Minnesota Rules,  
19 parts 7001.0020 and 7035.2565.

20 REPEALER. Minnesota Rules, parts 7005.0700; 7005.0710;  
21 7005.0720; 7005.0730; 7005.0740; 7005.0750; 7005.0760;  
22 7005.0770; 7005.0780; 7005.0790; 7005.0800; 7005.0810; and  
23 7005.0820 are repealed.