

§9321. Criteria for allowable burning

1. Criteria. In issuing any permit or permission for allowable burning, the director shall consider the following criteria:

- A. Forest fire danger indices and location of proposed burning; [PL 1979, c. 545, §3 (NEW).]
- B. The time of day and season of the year; [PL 1979, c. 545, §3 (NEW).]
- C. The temperature, humidity, wind speed and direction; [PL 1979, c. 545, §3 (NEW).]
- D. The matter and type of burning proposed, giving due consideration to prohibitions and permissible open-burning rules of the Department of Environmental Protection; [PL 1991, c. 36, §1 (AMD).]
- E. With regard to recreational fires, the feasibility of use of public campsites; [PL 1979, c. 545, §3 (NEW).]
- F. The length of the burning period; [PL 1979, c. 545, §3 (NEW).]
- G. The presence or availability of sufficient force and equipment to control the burning; [PL 1997, c. 512, §1 (AMD).]
- H. Experience and capability of the permittee in the safe use and control of the proposed burning; [PL 1997, c. 672, §1 (AMD).]
- I. In issuing a permit under section 9325, subsection 1, paragraph E, any prior convictions for violating that paragraph or section 9324, subsection 7-A; and [PL 2001, c. 626, §2 (AMD).]
- J. In issuing a permit under section 9325, subsection 1, paragraph E, the public health risk from toxic chemicals in the smoke plume in accordance with guidelines issued by the Department of Environmental Protection and the practicality of locating the incinerator at least 300 feet from any abutting property boundary and at least 150 feet from any residential dwelling. These setback criteria may not be used to deny a permit. [PL 1997, c. 672, §3 (NEW).]

[PL 2001, c. 626, §2 (AMD).]

2. Revocation. The director or the director's delegate may revoke any permit during a period of high forest fire danger or any permit which results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter 5 or Title 5, chapter 375.

[PL 1999, c. 547, Pt. B, §32 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

3. Delegation. The director may delegate the issuance of permits to forest rangers or town forest fire wardens and their deputies. A town forest fire warden or deputy authorized to issue permits pursuant to this subsection may issue permits using burn permit software acquired from a private party to establish a publicly accessible online system in accordance with section 9327.

[PL 2017, c. 449, §1 (AMD).]

4. Conditions. The director may issue a permit with stated conditions or restrictions to insure adequate control of permitted fires in accordance with criteria of subsection 1 and conformity to rules of the Department of Environmental Protection.

[PL 1991, c. 36, §2 (AMD).]

5. Stricter requirements. Nothing in this section shall prohibit a municipality from adopting ordinances specifying stricter criteria for out-of-door fires.

[PL 1979, c. 545, §3 (NEW).]

5-A. Notification. Any person authorized by this subchapter to issue permits for open burning who issues a permit for out-of-door burning within a municipality shall notify the municipal officers or fire chief of that municipality that the permit has been issued.

[PL 1987, c. 618, §1 (NEW).]

6. Penalty. Notwithstanding section 9701, any person who engages in out-of-door burning in violation of this article, or who fails to comply with any stated permit condition or restriction, commits a Class E crime. In addition, if the State proves that while in violation that person's out-of-door fire resulted in fire suppression costs to municipal or State Government, the court, as part of any sentence imposed, may order restitution, pursuant to Title 17-A, chapter 69, to be paid to the government entities incurring the suppression costs. For each violation of this article:

- A. The monetary award for restitution to a municipality may not exceed \$25,000; and [PL 2003, c. 556, §1 (AMD).]
- B. The total combined monetary award for restitution to municipalities and State Government may not exceed \$125,000. [PL 2003, c. 556, §1 (AMD).]

When bringing an action under this article, the State shall, to the fullest extent permitted by law, seek restitution of fire suppression costs incurred by state governmental entities relating to the violation. [PL 2019, c. 113, Pt. C, §17 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 504, §§1-3 (AMD). PL 1987, c. 618, §1 (AMD). PL 1989, c. 174, §5 (AMD). PL 1991, c. 36, §§1,2 (AMD). PL 1991, c. 528, §E10 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §E10 (AMD). PL 1997, c. 512, §§1,2 (AMD). PL 1997, c. 672, §§1-3 (AMD). PL 1999, c. 547, §B32 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 626, §2 (AMD). PL 2003, c. 556, §1 (AMD). PL 2017, c. 449, §1 (AMD). PL 2019, c. 113, Pt. C, §17 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 130th Maine Legislature and is current through October 31, 2021. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.