§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).]

1-A. Red flag warning areas. The following provisions govern permits for open burning in geographic areas subject to a red flag warning.

A. Except as provided in paragraph B, the director or the director's delegate may not issue a permit or other permission for open burning to take place in a geographic area subject to a red flag warning. [PL 2023, c. 56, §1 (NEW).]

B. The director or the director's delegate may issue a permit for a controlled burn on a commercially managed wild blueberry field in a geographic area subject to a red flag warning as long as the application for the permit includes a prescribed burn plan approved by the issuing authority. The permit must incorporate by reference the approved burn plan. [PL 2023, c. 56, §1 (NEW).]

[PL 2023, c. 56, §1 (NEW).]

2. Revocation. The director or the director's delegate may revoke any permit during a period of high forest fire danger or any permit that results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter 5 or Title 5, chapter 375. If a geographic area is subject to a red flag warning, the following provisions apply.

A. Except as provided in paragraph B, the director or the director's delegate shall revoke any permit for open burning in the geographic area during the period in which a red flag warning is in effect. [PL 2023, c. 56, §2 (NEW).]

B. The director or the director's delegate is not required to revoke a permit for a controlled burn on a commercially managed wild blueberry field during the period in which a red flag warning is in effect if the permit includes an approved prescribed burn plan. [PL 2023, c. 56, §2 (NEW).]

[PL 2023, c. 56, §2 (AMD).]

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). PL 2023, c. 56, §§1, 2 (AMD).

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