

23.2(455B) Open burning.

23.2(1) *Prohibition.* No person shall allow, cause or permit open burning of combustible materials, except as provided in 23.2(2) and 23.2(3).

23.2(2) *Variances from rules.* Any person wishing to conduct open burning of materials not exempted in 23.2(3) may make application for a variance as specified in 567—subrule 21.2(1). In addition to requiring the information specified under 567—subrule 21.2(1), the director may require any person applying for a variance from the open burning rules to submit adequate documentation to allow the director to assess whether granting the variance will hinder attainment or maintenance of a National Ambient Air Quality Standard (NAAQS). Adequate documentation requested may include, but is not limited to, the information required under 23.2(3)"g"(2)"2."

23.2(3) *Exemptions.* The following shall be permitted unless prohibited by local ordinances or regulations.

a. *Disaster rubbish.* The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists. Burning of any structures or demolished structures shall be conducted in accordance with 40 CFR Section 61.145 as amended through January 16, 1991, which is the "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants.

b. *Trees and tree trimmings.* The open burning of trees and tree trimmings not originated on the premises provided that the burning site is operated by a local governmental entity, the burning site is fenced and access is controlled, burning is conducted on a regularly scheduled basis and is supervised at all times, burning is conducted only when weather conditions are favorable with respect to surrounding property, and the burning site is limited to areas at least one-quarter mile from any inhabited building unless a written waiver in the form of an affidavit is submitted by the owner of the building to the department and to the local governmental entity prior to the first instance of open burning at the site which occurs after November 13, 1996. The written waiver shall become effective only upon recording in the office of the recorder of deeds of the county in which the inhabited building is located. However, when the open burning of trees and tree trimmings causes air pollution as defined in Iowa Code section 455B.131(3), the

department may take appropriate action to secure relocation of the burning operation. Rubber tires shall not be used to ignite trees and tree trimmings.

This exemption shall not apply within the area classified as the PM10 (inhalable) particulate Group II area of Mason City. This Group II area is described as follows: the area in Cerro Gordo County, Iowa, in Lincoln Township including Sections 13, 24 and 25; in Lime Creek Township including Sections 18, 19, 20, 21, 27, 28, 29, 30, 31, 32, 33, 34 and 35; in Mason Township the W ½ of Section 1, Sections 2, 3, 4, 5, 8, 9, the N ½ of Section 11, the NW ¼ of Section 12, the N ½ of Section 16, the N ½ of Section 17 and the portions of Sections 10 and 15 north and west of the line from U.S. Highway 18 south on Kentucky Avenue to 9th Street SE; thence west on 9th Street SE to the Minneapolis and St. Louis railroad tracks; thence south on Minneapolis and St. Louis railroad tracks to 19th Street SE; thence west on 19th Street SE to the section line between Sections 15 and 16.

c. Flare stacks. The open burning or flaring of waste gases, providing such open burning or flaring is conducted in compliance with 23.3(2)"d" and 23.3(3)"e."

d. Landscape waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

e. Recreational fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with 23.3(2)"d." Burning rubber tires is prohibited from this activity.

f. Residential waste. Backyard burning of residential waste at dwellings of four-family units or less. The adoption of more restrictive ordinances or regulations of a governing body of the political subdivision, relating to control of backyard burning, shall not be precluded by these rules.

g. Training fires and controlled burning of a demolished building.

(1) Training fires. For the purpose of this paragraph, a "training fire" is a fire set for the purpose of conducting bona fide training of public or industrial employees in fire fighting methods. For the purpose of this subparagraph, "bona fide training" means training that is conducted according to the National Fire Protection Association 1403 Standard on Live Fire Training Evolutions (2002 Edition), or a comparable training fire standard. A training fire may be conducted, provided that all of the following conditions are met:

1. A training fire on a building is conducted with the building structurally intact.

2. The training fire does not include the controlled burning of a demolished building.

3. If the training fire is to be conducted on a building, written notification must be provided to the department on DNR Form 542-8010, "Notification of an Iowa Training Fire-Demolition or a Controlled Burn of a Demolished Building," and must be postmarked or delivered to the director at least ten working days before such action commences.

4. Notification shall be made in accordance with 40 CFR Section 61.145 as amended through January 16, 1991, which is the "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants.

5. All asbestos-containing materials shall be removed prior to the training fire.

6. Asphalt roofing may be burned in a training fire only if the notification to the director contains testing results indicating that none of the layers of the asphalt roofing contain asbestos. During each calendar year, each fire department may conduct no more than two training fires on buildings where asphalt roofing has not been removed, provided that for each of those training fires the asphalt roofing material present has been tested to ensure that it does not contain asbestos. Each fire department's limit on the burning of asphalt roofing shall include both training fires and the controlled burning of a demolished building, as specified in 23.2(3)"g"(2).

7. Rubber tires shall not be burned during a training fire.

h. Paper or plastic pesticide containers and seed corn bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises. Such open burning shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning, livestock area, wildlife area, or water source. The amount of paper or plastic pesticide containers and seed corn bags that can be disposed of by open burning shall not exceed one day's accumulation or 50 pounds, whichever is less. However, when the burning of paper or plastic pesticide containers or seed corn bags causes a nuisance, the director may take action to secure relocation of the burning operation. Since the concentration levels of pesticide combustion products near the fire may be hazardous, the person conducting the open burning should take precautions to avoid inhalation of the pesticide combustion products.

i. Agricultural structures. The open burning of agricultural structures, provided that the open burning occurs on the premises and, for agricultural structures located within a city or town, at least one-fourth mile from any building inhabited by a person other than the landowner, a tenant, or an employee of the landowner or tenant conducting the open burning unless a written waiver in the form of an affidavit is submitted by the owner of the building to the department prior to the open burning; all chemicals and asphalt shingles are removed; burning is conducted only when weather conditions are favorable with respect to surrounding property; and permission from the local fire chief is secured in advance of the burning. Rubber tires shall not be used to ignite agricultural structures. The asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), as amended through January 16, 1991, requires the burning of agricultural structures to be conducted in accordance with 40 CFR Section 61.145, "Standard for Demolition and Renovation."

For the purposes of this subrule, "agricultural structures" means barns, machine sheds, storage cribs, animal confinement buildings, and homes located on the premises and used in conjunction with crop production, livestock or poultry raising and feeding operations. "Agricultural structures," for asbestos NESHAP purposes, includes all of the above, with the exception

of a single residential structure on the premises having four or fewer dwelling units, which has been used only for residential purposes.

23.2(4) *Unavailability of exemptions in certain areas.*

Notwithstanding 23.2(2) and 23.2(3) "b," "d," "f," and "," no person shall allow, cause or permit the open burning of trees or tree trimmings, residential or landscape waste or agricultural structures in the cities of: Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, and Pleasant Hill.

This rule is intended to implement Iowa Code section 455B.133.

567-23.2

EPA Rulemakings

CFR: 40 C.F.R. 52.820(b)
FRM: 37 FR 10842 (5/31/72)
PRM: None
State Submission: 1/27/72
State Proposal: 9/23/70
State Final: Effective 4/1/72
APDB File: IA-00
Description: This rule was approved as part of the original SIP.

CFR: 40 C.F.R. 52.820(c)(43)
FRM: 50 FR 37176 (9/12/85)
PRM: 49 FR 45761 (11/20/84)
State Submission: 7/18/84
State Proposal: None
State Final: 7/1/83
APDB File: IA-19
Description: Recodification of the regulations from chapter 3 of the Iowa Department of Environmental Quality into Department 900, Title II, Chapters 20-39 of the Iowa Department of Water, Air and Waste Management (IDWAWM).

CFR: 40 C.F.R. 52.820(c)(52)(i)(B)
FRM: 55 FR 26690 (6/29/90)
PRM: None
State Submission: 5/7/90
State Proposal: IAB 11/15/89 (ARC 412A)
State Final: IAB 2/7/90 (ARC 658A) (Effective 3/14/90)
APDB File: IA-32
Description: This rulemaking recodified chapters 20-29. It was Water, Air and Waste Management (900) and is now Environmental Protection Commission (567).

CFR: 40 C.F.R. 52.820(c)(56)(i)(A)
FRM: 57 FR 2472 (1/22/92)
PRM: None
State Submission: 10/3/91
State Proposal: None
State Final: IAB 8/8/90 (Effective 9/12/91)
APDB File: IA-33
Description: The open burning of diseased trees was expanded to allow burning of trees and tree trimmings, an exemption was added to allow the burning of agricultural structures in rural areas with the permission of the local fire chief, and a minor word change was made for consistency.

CFR: 40 C.F.R. 52.820(c)(57)(i)(A)
FRM: 58 FR 27939 (5/12/93)
PRM: None
State Submission: 1/5/93
State Proposal: IAB 9/16/92 (ARC 3350A)
State Final: IAB 1/20/93 (ARC 3694A) (Effective 2/24/93)
APDB File: IA-37
Description: This revision added the statement that all asphalt roofing and asbestos-containing materials should be removed prior to the training fire.

CFR: 40 C.F.R. 52.820(c)(59)(i)(A)
FRM: 59 FR 65717 (12/21/94)
PRM: 59 FR 65744 (12/21/94)
State Submission: 5/5/94
State Proposal: 9/15/93
State Final: Effective 1/12/94 (Published 12/8/93)
APDB File: IA-46
Description: This revision makes the training fire notification requirements consistent with the asbestos NESHAP.

CFR: 40 C.F.R. 52.820(c)(64)(i)(B)
 FRM: 62 FR 55172 (10/23/97)
 PRM: 61 FR 39375 (7/29/96)
 State Submission: 2/16/96
 State Proposal: IAB 7/20/94 (ARC 4963A)
 State Final: IAB 3/15/95 (ARC 5490A) (Effective 4/19/95)
 APDB File: IA-52
 Description: This revision amended subrule 23.2(3), paragraphs d, g, h, and i which incorporated changes to the open burning exemptions and clarified the intent of certain exemptions regarding open burning in rural settings. Subrule 23.2(4) was amended to include reference to paragraph "i" and agricultural structures.

CFR: 40 C.F.R. 52.820 (c)
 FRM: 64 FR 17548 (4/12/99) and 65 FR 32030 (5/22/00) (correction)
 PRM: 64 FR 17592 (4/12/99)
 State Submission: 8/12/98
 State Proposal: 1/14/98
 State Final: IAC 4/8/98
 APDB File: IA-71
 Description: This revision adds provisions that prohibit burning of rubber tires in recreational fires and updates a reference to 40 C.F.R. 61.145.

CFR: 40 C.F.R. 52.820 (c)
 FRM: 69 FR 63947 (11/03/2004)
 PRM: 69 FR 63981 (11/03/2004)
 State Submission: 06/29/2004
 State Final: IAC 12/10/2003; effective 01/14/2004
 APDB File: IA-101; EDocket No. R07-OAR-2004-IA-0004
 Description: This revision made changes to 23.2(2); 23.2(3)a; 23.2(3)g(1) and 23.2(3)i.

Difference Between the State and EPA-Approved Regulation:

Subrule 23.2(3)g(2) was not submitted for approval. Variances from open burning rule 23.2(2) are subject to EPA approval.