

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER i: OPEN BURNING

PART 237  
OPEN BURNING

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AUTHORITY: Implementing Section 10 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1010 and 1027).

SOURCE: Adopted as Rules 401 through 406, R70-11, 2 PCB 373, filed and effective September 7, 1971

**SUBPART A: GENERAL PROVISIONS**

**Section 237.101 Definitions**  
(Rule 401)

- (a) **Agricultural Wastes:** Any refuse, except garbage or dead animals, generated on a farm or ranch by crop and livestock production practices, including such items as bags, cartons, dry bedding, structural materials, and landscape wastes.
- (b) **Domicile Waste:** Any refuse generated on single-family domiciliary property as a result of domiciliary activities. The term includes landscape waste, but excludes garbage and trade waste.
- (c) **Garbage:** Refuse resulting from the handling, processing preparation, cooking, and consumption of food or food products.
- (d) **Landscape Waste:** any vegetable or plant refuse, except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residue.
- (e) **Open Burning:** The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Act.

- (f) Refuse. Any discarded matter; or any matter which is to be reduced in volume, or otherwise changed in chemical or physical properties, in order to facilitate its discard, removal or disposal.
- (g) Restricted Areas. The area within the boundaries of any "municipality" as defined in the Illinois Municipal Code, plus a zone extending one mile beyond the boundaries of any such municipality having a population of 1,000 or more according to the latest federal census.
- (h) Trade Waste. Any refuse resulting from the prosecution of any trade, business, industry, commercial venture, utility or service activity, and any government or institutional activity, whether or not for profit. The term includes landscape waste but excludes agricultural waste.

**Section 237.102 Prohibitions**  
(Rule 402)

[Note: By action of its Legislature, the State was prohibited from adopting limits on burning of landscape waste except in counties over 400,000 population. Furthermore, these regulations are not being enforced even in counties over 400,000 population due to an adverse outcome of a court challenge. Therefore, these regulations are being enforced only for wastes other than landscape wastes, applicable Statewide.]

- (a) No person shall cause or allow open burning, except as provided in Rules 403, 404, and 405 of this Part.
- (b) No person shall cause or allow open burning of any refuse in any chamber or apparatus, unless such chamber or apparatus is designed for the purpose of disposing of the class of refuse being burned.

**Section 237.103 Explosive Wastes**  
(Rule 405)

Open burning of wastes creating a hazard of explosion, fire, or other serious harm, unless authorized by other provisions in this Part, shall be permitted only upon application for and grant of a variance as provided by the Act and by Chapter 1 of these Rules and Regulations.

**Section 237.110 Local Enforcement**  
(Rule 406)

It shall be the obligation of local governments as well as of the Environmental Protection Agency, to enforce by appropriate means the prohibitions of this Part.

**Section 237.120 Exemptions**  
(Rule 403)

The following activities are not in violation of Section 9(c) of the Environmental Protection Act or of this Part unless they cause air pollution as defined in the Act. Nothing in this Rule shall exempt such activities from applicable local restrictions.

- (a) The open burning of agricultural waste, but only:
- (1) on the premises on which such waste is generated; and
  - (2) in areas other than restricted areas; and
  - (3) when atmospheric conditions will readily dissipate contaminants; and
  - (4) if such burning does not create a visibility problem hazard on roadways, railroad tracks, or air fields;
  - (5) more than 1000 feet from residential or other populated areas; and
  - (6) when it can be affirmatively demonstrated that no economically reasonable alternative method of disposal is available.
- (b) The open burning of domicile waste, but only:
- (1) on the premises on which such waste is generated; and
  - (2) in areas other than restricted areas; and
  - (3) when atmospheric conditions will rapidly dissipate contaminants; and
  - (4) if such burning does not create a viability hazard on roadways, railroad tracks, or air fields;
  - (5) notwithstanding subparagraph (2) of this paragraph (b), this exemption shall apply to residents in restricted areas who do not have refuse collection service available to them, but only until July 1, 1972.
- (c) The setting of fires to combat or limit existing fires, when reasonably necessary in the judgement of the responsible government official.
- (d) The burning of fuels for legitimate campfire, recreational, and cooking purposes, or in domestic fireplaces, in areas where such burning is consistent with other laws, provided that no garbage shall be burned in such cases;
- (e) The burning of waste gases, provided that in the case of refineries all such flares shall be equipped with smokeless tips of comparable devices to reduce pollution.
- (f) small open flames for heating tar, for welding, acetylene torches, highway safety flares, and the like.

## **SUBPART B: PERMITS**

### **Section 237.201 Available Permits** (Rule 404)

- (a) The Environmental Protection Agency may issue permits for open burning in the following instances:
- (1) For instruction in methods of firefighting; or for testing of equipment for extinguishing fires, of flares and signals, or of experimental incinerators, or for research in control of fires;
  - (2) For the destruction of vegetation on site under circumstances in which its removal would necessitate significant environmental damage;
  - (3) For research or management in prairie or forest ecology;
  - (4) For the destruction of landscape wastes, provided that such burning shall not occur:
    - (I) in restricted areas, unless burning is conducted with the aid of an air-curtain destructor or comparable device to reduce emissions substantially;  
or
    - (ii) within 1000 feet of any residential or other populated area; or
    - (iii) after July 1, 1972 except with the aid of an air-curtain destructor or comparable device to reduce contaminant emissions substantially.
  - (5) For the destruction of oil sludges in petroleum production for safety reasons where alternative means including product recovery are impractical; provided, that when emergency conditions require, such burning may be done without a permit, and a report filed with the Agency within ten days, thereafter, indicating the place and time of such burning, the quantities burned, the meteorological conditions, and the reasons why open burning was necessary.
- (b) An application for a permit shall be in such form and shall contain such information as shall be required in procedures adopted by the Agency. Such application shall contain, as a minimum, data and information sufficient to inform the Agency with respect to: the exact quantities and types of material to be burned; the exact nature and exact quantities of air contaminant emissions which will result; the exact frequency, including date where appropriate, when such burning shall take place; the exact location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, etc.: the methods or actions which will be taken to reduce the emission of air contaminants; the reasons why alternatives to open burning are not available; and the reasons why such burning is necessary to the public interest.
- (c) No permit shall be granted unless the applicant proves to the satisfaction of the Agency that the open burning: is necessary to the public interest; will be conducted in such a time, place and matter as to minimize the emission of air contaminants; will have no serious detrimental effect upon adjacent properties or the occupants thereof.
- (d) The Agency may impose such conditions in the permit as may be necessary to accomplish the purposes of the Act or this Part.

- (e) No permit shall be valid for longer than one year. Applications for renewal of a permit shall be submitted to the Agency at least 90 days prior to the expiration of the prior permit, and shall conform to Rule 404 (b). The standards for issuance of renewal permits shall be as set forth in Rule 404 (c).
- (f) Violation of any of the conditions of the permit shall be grounds for revocation of the permit by the Agency, as well as other sanctions provided in the Act.
- (g) The Agency may revise any permit granted pursuant to this Rule, or any condition contained in any such permit.