

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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CHAPTER Env-A 1000 PREVENTION, ABATEMENT, AND CONTROL OF OPEN SOURCE AIR POLLUTION

Statutory Authority: RSA 125-C:4, I(a)

PART Env-A 1001 OPEN BURNING

Env-A 1001.01 Purpose. The purpose of this part is to limit open air source pollution by regulating emissions of particulate matter and toxic air pollutants from the burning of materials where the products of combustion are discharged directly into the atmosphere rather than through a stack, chimney, or flue. Regulation of open burning is necessary to maintain attainment of the ambient air quality standards in accordance with sections 109 and 110 of the Clean Air Act, as amended, and to protect the public health and welfare pursuant to RSA 125-C:1.

Source. #120, eff 8-31-73; ss by #721.1, eff 12-7-75; amd by #1036, eff 10-15-77; #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.02 Applicability. This part shall apply to any person conducting open burning within the state.

Source. #120, eff 8-31-73; ss by #721.1, eff 12-7-75; amd by #1036, eff 10-15-77; #1717, eff 2-19-81; amd #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #4619, eff 5-26-89; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.03 Definitions.

- (a) "Brush" means tree tops, limbs, saplings, and tree cuttings, including attached leaves, that are 5 inches in diameter or less.
- (b) "Campfire wood" means any section of a tree trunk, limb, or branch cut or split specifically for use in a campfire.
- (c) "Combustible domestic waste" means "combustible domestic waste" as defined in RSA 125-N:2, IV, reprinted in Appendix B.
- (d) "Construction and demolition debris" means "construction and demolition debris" as defined in RSA 149-M:4, IV-a, reprinted in Appendix B.
- (e) "Open burning" means the burning of any type of combustible material outside in the ambient air.
- (f) "Person" means "person" as defined in RSA 125-C:2, X, reprinted in Appendix B.
- (g) "Salvaging or reclaiming operation" means any activity by which a used material is processed for reuse, including but not limited to reprocessing of used motor oils, metals, chemicals, shipping containers, drums, automobiles, automobile parts, and junk yard materials.
- (h) "Tire" means any rubber or synthetic object that is solid, liquid, or gas-filled and upon which vehicles or machines can be or have been driven or moved.
- (i) "Tube" means any rubber or synthetic object used in conjunction with tires for the purpose of containing gas within a tire cavity, regardless of whether any gas is still contained.

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- (j) “Untreated wood” means “untreated wood” as defined in Env-A 100, reprinted in Appendix B.

Source. #120, eff 8-31-73; ss by #721.1, eff 12-7-75; amd by #1036, eff 10-15-77; #1717, eff 2-19-81; amd #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03; amd by #9239, eff 8-23-08; amd by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.04 General Open Burning Requirements. Open burning in any part of the state shall be permissible only when the burning:

- (a) Is conducted in accordance with the more stringent of all applicable state and local ordinances, including but not limited to RSA 125-C:10-c and RSA 227-L;
- (b) Is authorized by an official having jurisdiction over open burning, whenever authorization is required; and
- (c) Includes only materials allowed by law or rule to be burned in the open.

Source. #120, eff 8-31-73; ss by #721.12, eff 12-7-75; #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss and moved by #7850, eff 3-12-03 (formerly Env-A 1001.03(a)); ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.05 Limited Open Burning Authorized. Throughout the state, the following types of open burning shall be permissible without authorization from the department provided the requirements of Env-A 1001.04 are met:

- (a) Burning of untreated wood, untreated pallets, campfire wood, brush, or charcoal in:
- (1) A campfire, outdoor grill, or outdoor fireplace for recreational purposes or for food preparation; or
 - (2) A bonfire, in conjunction with holiday or festive celebrations;
- (b) On-premises burning for the purpose of frost prevention or agricultural, forestry, or wildlife habitat improvement;
- (c) Burning by the land owner of brush or leaves on a commercial property, provided the material originates on-site;
- (d) Burning by the land owner of brush or leaves on a private, residential property, provided the material:
- (1) Originates on-site; or
 - (2) Originates on another residential property and is not transported to the burning location for commercial purposes or by a commercial entity or its employees;
- (e) Burning by any city or town of brush or leaves; and

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(f) As specified in RSA 125-C:10-c, the incidental combustion, under the supervision of a solid waste facility operator, of the untreated wood component of construction and demolition debris at any municipal transfer station subject to regulation under RSA 149-M.

Source. #120, eff 8-31-73; ss by #721.12, eff 12-7-75; #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss and moved by #7850, eff 3-12-03(formerly Env-A 1001.03(b)(1), (b)(2), (b)(4), (c)(2), and (c)(3) and Env-A 1001.04(a)(2)); ss by #9239, eff 8-23-08; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.06 Prohibition Against Residential Open Burning of Combustible Domestic Waste. As specified in RSA 125-N:4, residential open burning of combustible domestic waste shall be prohibited.

Source. #120, eff 8-31-73; ss by #721.1 and 721.2, eff 12-7-75; ss by #1036, eff 10-15-77; ss by #1717, eff 2-19-81; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.07 Prohibition Against Burning Tires and Tubes. No tires, tubes, or any portion thereof shall be burned in the ambient air at any place in the state for any reason.

Source. #7850, eff 3-12-03 (formerly Env-A 1001.05); ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.08 Prohibition Against Burning in the Ambient Air for Salvaging or Reclaiming Operations.

(a) An incinerator that meets the requirements of Env-A 1900 shall be employed for all thermal salvaging or reclaiming.

(b) No salvaging or reclaiming operation shall burn anything on-site in the ambient air.

Source. #7850, eff 3-12-03 (formerly Env-A 1001.06); ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1001.09 Prohibition Against the Open Burning of Construction and Demolition Debris. As specified in RSA 125-C:10-c, I, no person shall combust in the open or allow the open burning of construction and demolition debris, including the wood component thereof.

Source. #9239, eff 8-23-08; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

PART Env-A 1002 FUGITIVE DUST

Env-A 1002.01 Purpose. The purpose of this part is to limit pollution from open air sources by regulating the direct emissions of particulate matter from those activities that are most likely to generate airborne particulate matter, also called fugitive dust.

Source. #1038, eff 10-15-78; amd by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850,

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eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES:
8-31-11; ss by # 9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1002.02 Applicability.

(a) Fugitive dust emissions that are carried by air currents beyond the boundary of the lot on which such emissions occur shall be subject to this part when created by any commercial or business activity that generates airborne particulate matter, including but not limited to the following:

- (1) Commercial mining and quarrying, including the construction, maintenance, or operation of a commercial mining, quarrying, or strip mining facility or part thereof, as well as activities that involve the use of explosive materials in a way that creates airborne particulate matter;
- (2) Construction or renovation of buildings, bridges or other structures, including paving, sweeping, trenching, excavating, filling, or other activity associated with the building of streets, roads, highways, parking lots, public walkways, shopping centers, housing developments, or other centers of business or residential development;
- (3) Pavement maintenance, including sweeping, vacuuming, surface preparation for resurfacing, and any other activity involved with the upkeep of streets, roads, highways, parking lots, public walkways, shopping centers, housing developments or other centers of business or residential development, buildings, bridges, utilities, sewer lines, waterlines, or similar structures;
- (4) Demolition, including the tearing down of buildings, bridges, or other structures; and
- (5) Outdoor storage and material stockpiles, including the unloading, redistribution, and maintenance of materials.

(b) This part shall not apply to the following:

- (1) Application of materials such as sand or de-icing chemicals to streets, roads, highways, parking lots, driveways, or walkways for pedestrian and vehicular safety;
- (2) Driving on gravel or dirt roads;
- (3) Using leaf blowers or compressed air, provided that on commercial properties and public ways such equipment shall:
 - a. Be used solely for the purpose of blowing leaves and vegetation; and
 - b. Not be used to blow dirt, sand, or gravel except as incidental and necessary to blowing leaves and vegetation in accordance with (a.), above;
- (4) Resurfacing existing highways where the removal of asphalt, sand, or other material is not necessary; and
- (5) Agricultural or forestry industry activities or operations.

Source. #1038, eff 10-15-78; amd by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1002.03 Precautions to Prevent, Abate, and Control Fugitive Dust.

(a) Any person engaged in any activity within the state that emits fugitive dust, other than those listed in Env-A 1002.02(b), shall take precautions throughout the duration of the activity in order to prevent, abate, and control the emission of fugitive dust.

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- (b) Precautions required by (a), above, shall include but not be limited to the following:
- (1) The use of water or hydrophilic material on operations or surfaces, or both;
 - (2) The construction of wind barriers, application of asphalt, water or hydrophilic material, or tarps or other such covers to material stockpiles;
 - (3) The use of hoods, fans, fabric filters, or other devices to enclose and vent areas where materials prone to producing fugitive dust are handled;
 - (4) The use of containment methods for sandblasting or similar operations, such as construction of wind barriers and phasing of work to reduce disturbed surface area; and
 - (5) The use of vacuums or other suction devices to collect airborne particulate matter.

Source. #1038, eff 10-15-78; amd by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11 (from Env-A 1002.04); ss by #12831, eff 8-1-19

PART Env-A 1003 FIREFIGHTER INSTRUCTION AND TRAINING ACTIVITIES

Env-A 1003.01 Purpose. The purpose of this part is to minimize pollution from open air sources by limiting emissions of particulate matter and toxic air pollutants from open burning for firefighter instruction and training purposes.

Source. #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1003.02 Applicability. This part shall apply to any sponsoring fire service organization conducting open burning within the state for firefighter instruction and training.

Source. #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1003.03 Definitions. For purposes of this part, the following definitions shall apply:

- (a) “Asbestos inspector” means “asbestos inspector” as defined in Env-A 1802, reprinted in Appendix B;
- (b) “Fire department” means “fire department” as defined in Fire 101, reprinted in Appendix B;
- (c) “Person” means “person” as defined in RSA 125-C:2, X, reprinted in Appendix B;
- (d) “Sponsoring fire service organization” means:
 - (1) Fire department as defined in this section; or
 - (2) Any person who is authorized under RSA 21-P and Fire 100 et seq. to conduct firefighter instruction and training activities; and
- (e) “State certified fire instructor” means “state certified fire instructor” as defined in RSA 21-P:12-c, II(c), reprinted in Appendix B.

Source. #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

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Env-A 1003.04 Firefighter Instruction and Training Activities.

(a) Notwithstanding Env-A 1001, open burning by a sponsoring fire service organization of solid fuel, liquid fuel, a motor vehicle, or a structure shall be permissible for firefighter instruction and training only if conducted in accordance with this part.

(b) A state certified fire instructor shall directly control and supervise the firefighter instruction and training activities that involve open burning.

(c) The sponsoring fire service organization shall:

(1) Not burn any debris from the demolition of a structure; and

(2) If burning a structure, ensure that the owner of the structure disposes of ash resulting from firefighter instruction and training activities in accordance with the solid waste rules, in particular Env-Sw 902.01(a), Env-Sw 902.02(c), and Env-Sw 902.04(a)&(b).

Source. #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1003.05 Required Notice for Live Fire Instruction and Training Activities.

(a) At least 10 days before an open burn for firefighter instruction and training purposes, the sponsoring fire service organization shall complete and submit to the department an ARD-1003 form, "Live Fire Instruction and Training Activities", as specified in Env-A 1003.06.

(b) The sponsoring fire service organization shall:

(1) Sign and date the form; and

(2) Certify by the individual's signature that the information on the form is true and correct to the best of the individual's knowledge and belief.

Source. #7850, eff 3-12-03; ss by #9863, INTERIM, eff 3-4-11, EXPIRES: 8-31-11; ss by #9909, eff 5-1-11; ss by #12831, eff 8-1-19

Env-A 1003.06 ARD-1003 Form, Live Fire Instruction and Training Activities. The sponsoring fire service organization shall provide the following information on the ARD 1003 form:

(a) Regarding the sponsoring fire service organization, the organization's:

(1) Name;

(2) Mailing address; and

(3) Daytime telephone number, including area code;

(b) Regarding the contact person for the fire service organization, the contact's:

(1) Name;

(2) Title; and

(3) Daytime telephone number, including area code;

(c) The date(s) of the instruction and training activities;

(d) The location of the instruction and training activities;

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- (e) A detailed description of the instruction and training activities;
- (f) Regarding the state certified fire instructor for the instruction and training activities, the instructor's:
 - (1) Name;
 - (2) Daytime telephone number, including area code; and
 - (3) Type of instructor;
- (g) If conducting instruction and training activities in a structure:
 - (1) A statement that an asbestos inspector has performed an asbestos inspection and provided a report to the building owner certifying that all asbestos containing materials have been removed;
 - (2) A statement that an asbestos notification form as specified in Env-A 1803 has been completed and submitted to the department at least 10 days prior to the scheduled burn date; and
 - (3) A statement that all of the following materials have been removed from the structure and properly disposed of:
 - a. Mercury-containing thermostats;
 - b. Fluorescent lamps;
 - c. Fuel oil tanks;
 - d. Paints, solvents, and other liquids containing hazardous ingredients;
 - e. Pesticides, insecticides, fertilizers, and potentially hazardous solids;
 - f. Tires;
 - g. Residential trash; and
 - h. Furniture and appliances not specifically used in the training exercise; and
- (h) A statement that the instruction and training activities will be conducted in accordance with this part.

Source. #9909, eff 5-1-11 (from Env-A 1003.05); ss by #12831, eff 8-1-19

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule	Specific State Statute the Rule Implements
Env-A 1000 (see also specific rules listed below)	RSA 125-C:4, I(a)
Env-A 1001.01, 1001.02, 1001.03(a)-(c) & (e)-(k), 1001.04	RSA 125-C:4, I(a)
Env-A 1001.03(d)	RSA 149-M:4, IV-a
Env-A 1001.05	RSA 125-C:6, RSA 125-C:10-c
Env-A 1001.06	RSA 125-N:4
Env-A 1001.07 - Env-A 1001.08	RSA 125-C:4, I(a)
Env-A 1001.09	RSA 125-C:10-c
Env-A 1002.01 - Env-A 1002.04	RSA 125-C:4, I(a)
Env-A 1003.01 - Env-A 1003.05	RSA 125-C:4, I(a)

APPENDIX B: REFERENCED DEFINITIONS

Env-A 100

Env-A 101.211 “Untreated wood” means any timber, board or sawn dimensional lumber which has not been treated, coated or preserved. This term does not include any manufactured building material, such as plywood or waferboard.

Env-A 1802

Env-A 1802.14 “Asbestos inspector” means an individual who is capable of identifying asbestos hazards in a commercial, private, or residential structure, and who has completed, at a minimum, a training course for asbestos inspectors meeting the requirements of 40 CFR 763, subpart E, appendix C, section I:B.3.

Fire 101

Fire 101.14 “Fire department” means the legally constituted municipal or privately incorporated entity that provides services such as, but not limited to, fire suppression, fire prevention, rescue, hazardous materials, emergency medical care, fire investigation, and fire or building inspections in the state, county, municipality, organized fire district, or area.

RSA 21-P:12, II

(c) “State certified fire instructor” means a person who has completed the requirements to hold such certification as approved by the New Hampshire fire standards and training commission.

RSA 125-C:2

X. “Person,” [means] any individual, partnership, firm or co-partnership, association, company, trust, corporation, department, bureau, agency, private or municipal corporation, or any political subdivision of the state, the United States or political subdivisions or agencies thereof, or any other entity recognized by law as subject to rights and duties.

RSA 125-N:2

IV. “Combustible domestic waste” means combustible waste such as, but not limited to, household trash, packaging materials, plastics, coated or laminated papers, rubber, painted or treated wood, coated or treated cardboard, oily rags, and animal, vegetable, and kitchen waste. The term does not include untreated wood, leaves, brush, or paper products generated at a residence.

RSA 149-M:4

IV-a. “Construction and demolition debris” means non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes, but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.