

CHAPTER 7 OUTDOOR BURNING

Rule 7.101 - Definitions

For the purpose of this subchapter the following definitions apply:

- (1) "Airshed Group" means the Montana-Idaho Interstate Airshed Group.
- (2) "Best Available Control Technology (BACT)" means those methods of controlling pollutants from an outdoor burning source that limit emissions to the maximum degree achievable, as determined by the department on a case-by-case basis taking into account impacts on energy use, the environment, and the economy, as well as other costs, including cost to the source. Such methods may include the following: burning during seasons and periods of good or excellent ventilation, using dispersion forecasts and predictive modeling to minimize smoke impacts, limiting the amount of burning at any one time, using burning techniques that minimize smoke production, minimizing dirt in piles and minimizing moisture content of target fuels, ensuring adequate air to fuel ratios, prioritizing burns as to air quality impact and assigning control techniques accordingly, and promoting alternative uses of materials to be burned. BACT includes but is not limited to following all conditions of the outdoor burning permits and all restrictions listed on the outdoor burning hotlines maintained by the department. For members of the Airshed Group, BACT includes but is not limited to following all restrictions called by the Monitoring Unit and DEQ.
- (3) "Bonfire" means a fire, generally larger than two feet in diameter, for the purpose of celebrating a particular organization-related event.
- (4) "Christmas Tree Waste" means wood waste from commercially grown Christmas trees left in the field where the trees were grown, after harvesting and on-site processing.
- (5) "Essential Agricultural Outdoor Burning" means any outdoor burning conducted on a farm or ranch to:
 - (a) eliminate excess vegetative matter from an irrigation ditch when no reasonable alternative method of disposal is available;
 - (b) eliminate excess vegetative matter from cultivated fields when no reasonable alternative method of disposal is available;
 - (c) improve range conditions when no reasonable alternative method is available; or
 - (d) improve wildlife habitat when no reasonable alternative method is available.
- (6) "Impact Zone M" means the area defined by:
 - T11N R17W Sections 1 through 6, 7 through 11, 17 through 18;
 - T11N R18W Sections 4 through 8, 17 through 20, 30 through 33;
 - T11N R19W Sections 1 through 36;
 - T11N R20W Sections 1 through 18, 20 through 29, 32 through 36;
 - T11N R21W Sections 1 through 13
 - T11N R22W Sections 1, 2, 11, 12;
 - T12N R16W Sections 18 through 20, 29 through 32;
 - T12N R17W Section 2 through 11, 13 through 36;
 - T12N R18W Sections 1 through 26, 28 through 33, 36;
 - T12N R19W Sections 1 through 36;
 - T12N R20W Sections 1 through 36;
 - T12N R21W Sections 1 through 36;
 - T12N R22W Sections 1, 2, 11 through 14, 23 through 26, 35, 36;
 - T13N R16W Sections 6,7;

- T13N R17W Sections 1 through 12, 15 through 21, 28 through 33;
T13N R18W Sections 1 through 36;
T13N R19W Sections 1 through 36;
T13N R20W Sections 1 through 36;
T13N R21W Sections 1 through 36;
T13N R22W Sections 1, 2, 11 through 14, 24, 25, 36;
T14N R16W Sections 18, 19, 30, 31;
T14N R17W Sections 5 through 8, 13 through 36;
T14N R18W Sections 1 through 36;
T14N R19W Sections 1 through 36;
T14N R20W Sections 1 through 36;
T14N R21W Sections 1 through 36;
T14N R22W Sections 1, 2, 11 through 14, 22 through 27, 34 through 36;
T15N R18W Sections 7 through 11, 14 through 23, 26 through 35;
T15N R19W Sections 7 through 36;
T15N R20W Sections 7 through 36;
T15N R21W Sections 9 through 16, 20 through 36;
T15N R22W Section 36; as shown on the map in Appendix A.
- (7) “Major Outdoor Burning Source” means any person conducting outdoor burning that within Missoula County will emit more than 500 tons per calendar year of carbon monoxide or 50 tons per calendar year of any other pollutant regulated under this Program, except hydrocarbons.
- (8) “Minor Outdoor Burning Source” means any person conducting outdoor burning that is not a major outdoor burning source.
- (9) “Outdoor Burning” means combustion of material outside with or without a receptacle, with the exception of small recreational fires burning clean wood, construction site heating devices using liquid or gaseous fuels to warm workers or equipment, safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, or burning in a furnace, multiple chamber incinerator or wood waste burner.
- (10) “Prescribed Wildland Outdoor Burning” means any planned outdoor burning, either deliberately or naturally ignited, that is conducted on forest land or relatively undeveloped rangeland to:
- (a) improve wildlife habitat;
 - (b) improve range conditions;
 - (c) promote forest regeneration;
 - (d) reduce fire hazards resulting from forestry practices, including reduction of log deck debris when the log deck is close to a timber harvest site;
 - (e) control forest pests and diseases; or
 - (f) promote any other accepted silvicultural practices.
- (11) “Recreational Fire” means a small, attended fire, that does not exceed two feet in diameter. If the primary purpose of the fire is to dispose of the material being burned, it is not considered a recreational fire, regardless of size.
- (12) “Trade Waste” means waste material resulting from construction or operation of any business, trade, industry, or demolition project, including wood products industry wastes such as sawdust, bark, peelings, chips, shavings, and cull wood. Trade wastes do not include wastes generally disposed of by essential agricultural outdoor burning, prescribed wildland outdoor burning or Christmas tree waste outdoor burning, as defined in this rule.

- (13) “Treated Wood” means wood that has had any foreign material added to it, including, but not limited to paper, glues, paints, resins, chemicals, stains and plastics.

Rule 7.102 - Outdoor Burning Permits Required

- (1) A person may not cause or allow outdoor burning unless he has a valid outdoor burning permit from the department or its authorized agent except as provided in (3) of this rule.
- (2) The department may place any reasonable requirements in an outdoor burning permit to reduce emissions, minimize the impacts of air pollutants or protect the public health or safety, and the person or agency conducting the burn shall adhere to those conditions.
- (3) (a) While the Airshed Group’s Monitoring Unit is operating, Major Outdoor Burning Sources who are members of the Airshed Group may satisfy the permit requirements in (1) of this rule by having a valid burning permit issued by DEQ pursuant to ARM 17.8.610. To burn when the Monitoring Unit is not in operation, Major Outdoor Burning Sources shall have a burning permit issued by the department.
- (b) Notwithstanding (a) of this rule, the department may require a Major Outdoor Burning Source to have an outdoor burning permit issued by the department for burns conducted any time of the year, if it determines such a permit is necessary to protect air quality in Missoula County or enforce the provisions of this Program.
- (c) The department may enforce all the provisions of Rule 7.107 regardless of what permit is in effect.

Rule 7.103 - Materials Prohibited

- (1) A person may not dispose of any material other than natural vegetation and untreated lumber through outdoor burning, unless otherwise allowed in this Chapter.
- (2) Waste moved from the premises where it was generated, except as permitted in Rule 7.110 (conditional outdoor burning) and Rule 7.112 (emergency outdoor burning), may not be disposed of through outdoor burning.
- (3) Trade wastes, except as permitted in Rule 7.110 (conditional outdoor burning) and Rule 7.112 (emergency outdoor burning), may not be disposed of through outdoor burning.
- (4) Christmas tree wastes, except as permitted in Rule 7.111 (Christmas tree waste outdoor burning) may not be disposed of through outdoor burning.
- (5) Standing or demolished structures, except as permitted in Rule 7.109 (firefighter training), Rule 7.110 (conditional outdoor burning) or Rule 7.113 (commercial film production), may not be disposed of through outdoor burning.
- (6) Inside the Missoula Air Stagnation Zone, piles of grass or deciduous leaves may not be disposed of through outdoor burning.

Rule 7.104 - Burning Seasons

- (1) The following categories of outdoor burning may be conducted during the entire year:
- (a) prescribed wildland burning;
- (b) fire fighters training;
- (c) emergency outdoor burning;
- (d) for the purpose of thawing frozen ground to allow excavation of utilities.

- (e) ceremonial bonfires
- (2) Commercial film production outdoor burning may be conducted only during the months of March through November.
- (3) Essential agricultural burning and conditional outdoor burning may only be conducted March through October.
- (4) Outdoor burning other than those categories listed in Sections (1) – (3) above may only be conducted March through August.

Rule 7.105 - Restricted Areas

- (1) Outdoor burning is not allowed within the Missoula City limits, or in areas surrounded by the City except when:
 - (a) it occurs on parcels of at least one acre under single ownership; or
 - (b) the department determines outdoor burning is necessary:
 - (i) to eliminate a fire hazard that cannot be abated by any other means;
 - (ii) for fire fighter training;
 - (iii) for thawing frozen ground to allow excavation of utilities;
 - (iv) to eliminate hazards in an emergency;
 - (v) for bonfires as allowed by the Missoula Municipal Code.
- (2) Within Impact Zone M, a person may not conduct prescribed wildland burning except when good or excellent dispersion is forecast for the entire period of expected smoke generation. Prescribed wildland burning is not allowed in “Impact Zone M” December 1 through the end of February, except as allowed under Rule 7.106(2).
- (3) The department may place restrictions on outdoor burning by elevation or area for the purpose of managing air quality. The department shall announce such restrictions on the department’s outdoor burning hotlines.

Rule 7.106 - Minor Outdoor Burning Source Requirements

- (1) A minor outdoor burning source shall:
 - (a) conform with BACT;
 - (b) comply with all outdoor burning rules, except Rule 7.107;
 - (c) comply with any requirements or regulations relating to outdoor burning established by any public agency responsible for protecting public health and welfare, or for fire prevention or control; and
 - (d) adhere to the restrictions posted on the outdoor burning hotlines available by calling (406) 728-2667 for most of Missoula County and (406) 677-2899 for the Clearwater and Swan Drainages north of Clearwater Junction.
- (2) If a minor outdoor burning source desires to conduct prescribed wildland outdoor burning during December, January, or February, it shall:
 - (a) submit a written request to the department, demonstrating that the burning must be conducted prior to reopening of outdoor burning in March; and
 - (b) receive specific permission for the burning from the department;

Rule 7.107 - Major Outdoor Burning Source Requirements

- (1) An application for a Major Source Outdoor Burning Permit must be accompanied by the appropriate permit fee and must contain the following information:
 - (a) a legal description or detailed map showing the location of each planned site of outdoor burning.
 - (b) the elevation of each site.
 - (c) the average fuel loading or total fuel loading at each site.
 - (d) the method of burning to be used at each site.
- (2) An application for a Major Source Outdoor Burning Permit must be accompanied by proof of public notice, consistent with Rule 7.114.
- (3) A major outdoor burning source shall:
 - (a) conform with BACT;
 - (b) adhere to the conditions in the outdoor burning permit issued to it by the department, or, when applicable, by DEQ; and
 - (c) adhere to the restrictions posted on the outdoor burning hotlines: (406) 728-2667 for most of Missoula County and (406) 677-2899 for the Clearwater and Swan Drainages north of Clearwater Junction, except when the Airshed Group monitoring unit is in operation and its restrictions can be fully enforced by DEQ.
 - (d) comply with all restrictions issued by the Monitoring Unit;
 - (e) conduct outdoor burning in such a manner such that:
 - (i) emissions from the burn do not endanger public health or welfare;
 - (ii) emissions from the burn do not cause or contribute to a violation of a Montana or National Ambient Air Quality Standards; and
 - (iii) no public nuisance is created.
- (4) To burn in a manner other than that described in the application for burning permit, the source shall submit to the department, in writing or by telephone, a request for a change in the permit, including the information required by Section (1) (a)-(d) above, and must receive approval from the department.
- (5) A major source outdoor burning permit is valid for one year or for another time frame as specified in the permit by the department.

Rule 7.108 - Bonfire Permits

The department may issue a permit for a bonfire if:

- (1) The time and location is approved in writing by the appropriate fire department and law enforcement agency;
- (2) No public nuisance will be created; and
- (3) The materials to be burned are limited to untreated cordwood, untreated dimensional lumber and woody vegetation.

Rule 7.109 - Fire Fighter Training Permits

- (1) The department may issue a fire fighter training outdoor burning permit for burning materials that would otherwise be prohibited by Rule 7.103, if:
 - (a) the fire will be restricted to a building or structure, a permanent training facility, or other appropriate training site, but not a solid waste disposal site;

- (b) the material to be burned will not be allowed to smolder after the training session has ended;
 - (c) no public nuisance will be created;
 - (d) all known asbestos-containing material has been removed;
 - (e) asphalt shingles, flooring material, siding, and insulation that might contain asbestos have been removed, unless samples have been analyzed by a certified laboratory and shown to be asbestos free;
 - (f) all prohibited material that can be removed safely and reasonably has been removed;
 - (g) the burning accomplishes a legitimate training need and clear educational objectives have been identified for the training;
 - (h) burning is limited to that necessary to accomplish the educational objectives;
 - (i) the training operations and procedures are consistent with nationally accepted standards of good practice; and
 - (j) emissions from the outdoor burning will not endanger public health or welfare or cause or contribute to a violation of any Montana or federal ambient air quality standard.
- (2) A firefighter training permit is valid for only one location.
 - (3) The department shall inspect the structure or materials to be burned prior to the training to reasonably ensure compliance with this rule.
 - (4) An application for a fire fighter training outdoor burning permit must be made on a form provided by the department. The applicant shall provide adequate information for the department to determine whether it satisfies the requirements of this rule for a permit.
 - (5) An application for a firefighter training outdoor burning permit must be accompanied by proof of public notice, consistent with Rule 7.114.

Rule 7.110- Conditional Outdoor Burning Permits

- (1) The department may issue a conditional outdoor burning permit to dispose of:
 - (a) Untreated wood and untreated wood by-product trade wastes by any business, trade, industry;
 - (b) Untreated wood from a demolition project; or
 - (c) Untreated wood waste at a licensed landfill site, if the department determines that:
 - (i) the outdoor burning will occur at an approved burn site, as designated in the solid waste management system license issued by the DEQ; and
 - (ii) the pile is inspected by the department or its designated representative and only natural vegetation and clean, untreated lumber are present.
- (2) The department may issue a conditional outdoor burning permit only if it determines that:
 - (a) alternative methods of disposal would result in extreme economic hardship to the applicant;
 - (b) emissions from outdoor burning will not endanger public health or welfare or cause or contribute to a violation of any Montana or federal ambient air quality standard; and
 - (c) the outdoor burning will not occur within the Air Stagnation Zone. (see Appendix A)

- (3) The department shall be reasonable when determining whether alternative methods of disposal would result in extreme economic hardship to the applicant.
- (4) Conditional outdoor burning must conform with BACT.
- (5) A permit for burning trade waste is a temporary measure to allow time for the generator to develop alternative means of disposal.
- (6) A permit issued under this rule is valid for the following periods:
 - (a) Untreated wood and untreated wood by-products trade waste – up to 1 year; and
 - (b) Untreated wood waste at licensed landfill sites - single burn.
- (7) For a permit granted under Section (1)(a) above, the source may be required, prior to each burn, to receive approval from the department to ensure that good dispersion exists and to assign burn priorities if other sources in the area request to burn on the same day. Approval may be requested by calling the department at (406) 523-4755.
- (8) An application for a conditional outdoor burning permit must be accompanied by the appropriate application fee. The application must be made on a form provided by the department and must provide adequate information for the department to determine whether the application satisfies the requirements for a conditional air quality outdoor burning permit contained in this rule.
- (9) Proof of publication of public notice, consistent with Rule 7.114, must be submitted to the department before an application is considered complete.

Rule 7.111 - Christmas Tree Waste Outdoor Burning Permits

- (1) The department may issue an outdoor burning permit to allow burning of Christmas tree waste if emissions from the outdoor burning will not:
 - (a) endanger public health or welfare;
 - (b) cause or contribute to a violation of any Montana or federal ambient air quality standard; or
 - (c) cause a public nuisance.
- (2) Christmas tree waste outdoor burning must comply with BACT.
- (3) Christmas Tree Waste permits are valid for up to one year as specified in the permit issued by the department.
- (4) An application for a Christmas Tree Waste Outdoor Burning permit must be accompanied by the appropriate application fee. The application must be made on a form provided by the department and must include adequate information for the department to determine whether the requirements of this rule are satisfied.
- (5) An application for a Christmas Tree Waste Outdoor Burning permit must be accompanied by proof of public notice, consistent with Rule 7.114.

Rule 7.112 - Emergency Outdoor Burning Permits

- (1) The department may issue an emergency outdoor burning permit to allow burning of a substance not otherwise approved for burning if the applicant demonstrates that the substance to be burned poses an immediate threat to public health and safety, or plant or animal life, and that no alternative method of disposal is reasonably available.
- (2) The department may authorize emergency outdoor burning, upon receiving the following information:

- (a) facts establishing that alternative methods of disposing of the substance are not reasonably available;
 - (b) facts establishing that the substance to be burned poses an immediate threat to human health and safety or plant or animal life;
 - (c) the legal description or address of the site where the burn will occur;
 - (d) the amount of material to be burned;
 - (e) the date and time of the proposed burn;
 - (f) the date and time that the spill or incident giving rise to the emergency was first noticed; and
 - (g) a commitment to pay the appropriate permit application fee within ten (10) working days of permit issuance.
- (3) Within ten (10) working days of receiving oral authorization to conduct emergency outdoor burning, the applicant shall submit to the department, in writing, the information required in (2)(a) – (f) of this rule and the appropriate permit application fee.

Rule 7.113 - Commercial Film Production Outdoor Burning Permits

- (1) The department may issue a commercial film production outdoor burning permit for burning prohibited material as part of a commercial or educational film or video production for motion pictures or television. Use of pyrotechnic special effects materials, including bulk powder compositions and devices, smoke powder compositions and devices, matches and fuses, squibs and detonators, and fireworks specifically created for use by special effects pyrotechnicians for use in motion picture or video productions is not considered outdoor burning.
- (2) Emissions from commercial film production outdoor burning may not endanger public health or welfare or cause or contribute to a violation of any Montana or federal ambient air quality standard.
- (3) A permit issued under this rule is valid for a single production.
- (4) Outdoor burning under this rule must conform with BACT.
- (5) An application for a commercial film production outdoor burning permit must be accompanied by the appropriate application fee. The application must be made on a form provided by the department. The applicant shall provide adequate information for the department to determine whether the application satisfies the requirements of this rule.
- (6) Proof of publication of public notice, consistent with Rule 7.114, must be submitted to the department before an application is considered complete.

Rule 7.114 - Public Notice

- (1) When an applicant is required by this chapter to give public notice of a permit application, the applicant shall notify the public by legal publication, at least once, in a newspaper of general circulation in the area affected by the application. The notice must be published within 10 days of submittal of the application. The content of the notice must be approved by the department and must include a statement that public comments concerning the application may be submitted to the department within 20 days after publication of notice or after the department receives the application, whichever is later. A single public notice may be published for multiple applicants.
- (2) The public comment period may be shortened to ten (10) days for firefighter training permits.

Rule 7.115 - Outdoor Burning Permitting Actions

- (1) When the department approves or denies a outdoor burning permit application that requires public notice, a person who is adversely affected by the decision may request an administrative review as provided for in Chapter 14. The request must be filed within 15 days after the department renders its decision and must include the reasons for the request. The department's decision on the application is not final unless 15 days have elapsed from the date of the decision and there is no request for a hearing under this section. A request for a hearing postpones the effective date of the department's decision until the conclusion of the appeals process.
- (2) The department may immediately revoke an outdoor burning permit under the following conditions:
 - (a) if the outdoor burning causes a public nuisance;
 - (b) for a violation of a condition of the permit; or
 - (c) for a violation of a provision of this Program.
- (3) Upon revocation, the department may order a fire be immediately extinguished.
- (4) Revocation of a permit may be given verbally, but must be followed with a letter stating the reasons for the revocation or suspension.
- (5) An outdoor burning permit may be modified when the department or Control Board determines modifications are necessary to insure compliance with the provisions of this Program.
- (6) The department shall notify the permittee in writing of any modifications to the permit.
- (7) A party affected by the department's decision to revoke or modify a permit may request an administrative review as provided for in Chapter 14. However, the revocation or permit modifications remain in effect until such time as they are reversed.
- (8) Outdoor burning permits are not transferable and are only valid for the location and person to which they were originally issued.