



## Regulatory Authority

For *non-state-owned properties*, certain specific types of open burning activities can be permitted by a municipal Open Burning Official under the authority of the **Connecticut General Statutes (CGS) Section 22a-174(f)**. Open burning for agricultural purposes may be permitted by the municipal Open Burning Official.

*"Agriculture and farming" is defined in CGS Section 1-1(q) as "Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale of any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124".*

## Introduction

Connecticut farmers depend on productive agricultural land to optimize their potential harvest. Overgrown hedgerows, invasive plants and undesirable growing stock all contribute to loss of productive farmland. Chipping is a type of management practice utilized to control loss of productive farmland. However, it can be time consuming, expensive and may fail to eliminate invasive plant seed. Chipping also creates the potential for the re-depositing of invasive plant seed because the resulting chips need to be disposed of or spread on the farmland. When used appropriately, open burning can be an effective and economic way to manage invasive plant seed and material and infected plant material. In addition, farms generally have enough open land to safely burn brush.

***The use of open burning for agricultural purposes includes, but is not limited to, the following:***

- Clearing brush and unwanted plant material from hedgerows and cropland;
- reclaiming previously active farmland to enhance existing or establish new farming operations;
- controlling invasive plant material and invasive plant seed;
- controlling insects and diseases;
- pruning and culling fruit trees, bushes and Christmas trees; and
- conducting frost damage control.

No burning should be allowed for hay, leaves, stumps, construction and demolition material, pallets, pesticides, solid waste, hazardous waste, or tires, or for clearing for non-agricultural use. There are potentially significant environmental hazards that could be associated with burning of a structure. Therefore, structures should not be burned without sufficient and compelling just cause. Such hazards could include, but are not limited to, the following hazardous and special wastes: asbestos, chemicals, lead based paint, mercury, PCBs, and treated wood. In addition, "forgotten" materials, such as explosives that have been used in the past could be present. It should be noted that there may be very unique cases where burning of a structure may qualify as the best management option. For example, a structure may be burned if there is a specific and unique type of mold embedded throughout the structure which poses a health hazard to both humans and animals. All federal, state and local regulatory requirements must be adhered to; failure to do so subjects a responsible party to significant federal, state and local penalties.

## Important Considerations re/Applications

- DEEP has developed a model application permit template for use by the municipal Open Burning Official. The model template can be modified by a municipality. However, any modifications made must be as, or more restrictive than CGS Section 22a-174(f) or as prescribed by DEEP's Open Burning Program. Specifically, no changes should be made to the template section entitled "When the permit is not valid under certain conditions". These conditions are found in CGS sections 22a-174(f) and 23-49a. Careful consideration should be made before making any changes to the model template.

- It is the Applicant’s responsibility to complete the application in full and provide any and all necessary documentation requested so that the municipal Open Burning Official can make an informed decision.
  - The ability to determine if the proposed activity falls under “AGRICULTURAL PURPOSES” is critical to the municipal Open Burning Official decision-making.
  - The Applicant will need to demonstrate that the proposed agricultural burn is for an agricultural or farm related purpose and that it will not impact others in the area and will not pose a threat to property and structures within the immediate area.
  - Should the municipal Open Burning Official need assistance to determine if the proposed activity is an agricultural or farm related operation and the burn supports an agricultural purpose, the State of Connecticut’s Department of Agriculture will make itself available to consult with the municipal Open Burning Official.
- As part of the application process, it is strongly recommended that the municipal Open Burning Official conduct a site inspection. The Open Burning Official must obtain permission from the Applicant to enter onto the property and should schedule with the Applicant a date and time when the site inspection can be conducted.

### **Model Application/Permit Template**

The DEEP Model Application/Permit Template Form for this type of proposed activity includes the following major sections - **Application Information; Permit Conditions; and Final Decision:**

#### **Application Information to be completed by the Applicant:**

- General Applicant information – name, address, phone, email, location of the proposed burn, requested date and time of burn;
- Answer of a yes or no to the following question: *Is the property where the proposed activity is to occur an agricultural and/or farming operation as defined in CGS Chapter 1, Section 1-1q?*;
- Description of proposed activity and justification that the proposed activity is necessary and supports an Agricultural Purpose;
- Description and quantity of the material to be burned;
- Methods and equipment immediately available to control and extinguish the burn; and
- Sketch Map.
- The Applicant will be required to provide additional information if so requested by the municipal Open Burning Official. Requested information could include, but is not limited to, the following: documented Proof of Ownership of the property; if the Applicant is not the owner of the property, then documented Proof of Ownership and Authorization from the property owner; and documented proof of notification to adjacent property owners.

#### **Permit Conditions to be completed by the municipal Open Burning Official:**

- Permit conditions include General Permit Statements; Permit Not Valid under Certain Conditions; General Conditions Applicable to All Permits; and Special Conditions, Applicable if checked by the municipal Open Burning Official.

#### **Final decision to be completed by the municipal Open Burning Official:**

- This section includes a prompt for the municipal Open Burning Official prior to making their final decision and serves as a reminder that key resource contacts have been made available should technical assistance be needed. With regard to this type of activity, the PROMPT reads: ***In evaluating this application, did the Open Burning Official find it necessary to consult with the State of Connecticut’s Department of Agriculture to determine if the proposed activity is an agricultural or farm related operation and the burn supports an agricultural purpose?***
- The municipal Open Burning Official shall make a final determination and must sign and date the application/permit.

### **Contacts**

- State of Connecticut, DEEP, Bureau of Air Management, Open Burning Program, 860-424-4152
- State of Connecticut, Department of Agriculture, 860-713-2504

### **Available Resources**

State’s Predicted Daily Air Quality Index (AQI) Maximums [www.ct.gov/deep/aqi](http://www.ct.gov/deep/aqi)  
 State’s Forest Fire Level [www.ct.gov/deep/forestfiredanger](http://www.ct.gov/deep/forestfiredanger)  
 Open Burning Training Modules [www.ct.gov/deep/openburning](http://www.ct.gov/deep/openburning)

**Disclaimer:** Any views outlined in this informational material represent only an abstract summary and in no way should be considered a formal ruling by the CT Department of Energy and Environmental Protection. It is always the obligation of a Permit Holder to be familiar with and to comply with all applicable federal, state, and local requirements.