**§ 9-1105. General prohibitions.**

1. The following are prohibited:

(a) setting of fires on or near forest land and leaving such fires unattended and unquenched;

(b) setting of a fire which will endanger the property of another;

(c) setting of forest land on fire except where necessary to implement any provision of this chapter, including, but not limited to, paragraph v of subdivision two of section 3-0301 of this chapter; provided, however, that nothing contained in this paragraph shall permit the setting on fire of any land constituting the forest preserve or of any state land within the Adirondack Park or the Catskill Park for any purpose other than fire suppression. The department shall promulgate regulations governing the use of fire which shall include provisions for notification of, or waiver of notification by, local fire officials;

(d) setting of a permitted fire in or near forest land without all inflammable material having first been removed for a distance of 3 feet around the fire;

(e) the dropping, throwing or otherwise scattering of lighted matches, burning cigars, cigarettes or tobacco on forest land;

(f) the defacing, destruction or removal of any posted notice containing forest fire warnings, laws or rules and regulations.

2. It shall be unlawful to deposit, and leave in any of the fire towns, or in any town included in a fire district as defined in subdivision 2 of section 9-1109 of this title, brush or inflammable material upon the right of way of highways.

3. No device for generating power which burns wood, coke, lignite or coal shall be operated in, through or near forest land, unless the escape of sparks, cinders or coals shall be prevented in such manner as may be required by the department.

4. In any of the fire towns, or in any town included in a fire district as defined in subdivision 2 of section 9-1109, brush, logs, slash or other inflammable material shall not be left or allowed to remain on land within 25 feet of the right of way of a railroad or

within 20 feet of the right of way of a public highway.

5. It shall be unlawful to set or cause to be set or sustain any open fire for purpose of burning logs, leaves, sawdust, slabs, brush, stumps, dry grass or other debris, in any of the fire towns, without first having obtained from the department a written permit so to do.

6. Prescribed burns. (a) For the purposes of this subdivision, the term "prescribed burn" shall mean the intentional setting of forest land on fire, under carefully controlled conditions, in order to manage, enhance, or restore populations of plants or animal species or natural communities on such land.

(b) Notwithstanding the provisions of this section or any other provision of law, the department may authorize a landowner to conduct prescribed burn activities pursuant to a written prescribed burn management plan prepared by or for such landowner. The prescribed burn management plan shall include, but not be limited to, the following elements:

(i) a discussion of the landowner's training and expertise in conducting prescribed burn activities;

(ii) a map and narrative description identifying the area or areas on which prescribed burn activities will be undertaken;

(iii) a description of the ecological purposes and objectives of the prescribed burn, including an identification of the specific species or natural communities that are intended to be impacted by the burn;

(iv) a description of the vegetative cover and fuel loads on each area to be subjected to prescribed burning;

(v) a description of physical parameters, such as time of year, wind speed and direction, and air temperature and humidity, which must be met before a prescribed burn is initiated;

(vi) a description of the anticipated intensity and duration of the prescribed burn given the fuel loads and physical prescriptions established in subparagraphs (iv) and (v) of this paragraph;

(vii) a description of the logistics of the prescribed burn operation, number of personnel, and fire management equipment that will be deployed to assure that the burn is restricted to the area or areas identified for prescribed burn management;

(viii) a description of fire suppression activities to be immediately implemented should the prescribed burn threaten to escape, or actually escape, beyond the boundaries identified for such burn;

(ix) a procedure for notifying appropriate local fire officials and law enforcement personnel of the actual date, time, and estimated duration of any prescribed burn;

(x) a procedure for notifying adjacent landowners prior to the undertaking of a prescribed burn;

(xi) a description of the procedures that will be undertaken to assure that the prescribed burn is fully extinguished at the conclusion of the burn.

(c) The department shall promulgate regulations implementing this subdivision prior to authorizing any landowner to undertake prescribed burn activities. Such regulations shall include, but not be limited to, a listing of the necessary elements of the prescribed burn management plan, and standards for determining whether a request for authorization to conduct prescribed burn activities should be granted.

(d) The department shall reject any application for authorization to conduct a prescribed burn pursuant to this subdivision if the department determines that the landowner has not demonstrated the necessary expertise to properly implement the prescribed burn plan.

(e) Before granting a landowner authorization to conduct prescribed burn activities, the department shall give the chief or other official in charge of the fire department or company within whose territorial jurisdiction the proposed prescribed burn is located an opportunity to review and comment on the written prescribed burn management plan.

(f) No burning shall be prescribed under this subdivision within seventy-five feet of the boundary of a landowner's property without the written approval of the adjacent landowner. In addition, the department may prohibit burning in a buffer zone in excess of seventy-five feet from the boundary of an adjacent property owner if specific conditions at the site warrant such buffer.