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Open Fires

Nebraska has regulated open fires since 1972 and the Department of Environmental Quality (NDEQ) enforces some of the state regulations pertaining to open fires. Those regulations are in Chapter 30 of Title 129 – Nebraska Air Quality Regulations available on NDEQ’s website at <http://deq.ne.gov>.

“Open fires” means burning any matter in such a manner that the products of combustion (for example smoke) resulting from such fires are emitted directly into the air without passing through an adequate stack, duct, or chimney. Open fires create air pollution that can directly affect the health and well-being of people who live or work near an open fire site. The complex mixture of pollutants in smoke has been linked to multiple respiratory problems and illnesses, especially in at-risk groups such as children and the elderly. Air pollution from open fires can cause property damage. In addition to irritating smoke and odors, open fires emit polycyclic aromatic hydrocarbons (PAHs), carbon monoxide, and smog-forming nitrogen oxides.

In general, open fires are prohibited statewide, but there are allowable exceptions that require obtaining two open fire permits prior to initiating an open fire:

1. The first permit, issued by the NDEQ, ensures compliance with Title 129-Nebraska Air Quality Regulations and takes into consideration both environmental and human health effects. To obtain a department open fire permit, any pile of material proposed for burning must be at least one quarter (1/4) of a mile from the nearest downwind road or occupied structure, and the permittee must take all actions necessary to avoid causing damage or nuisance conditions from smoke impacts. If any pile of material proposed for burning does not meet the one quarter of a mile distance requirement, the applicant may conduct air dispersion modeling to demonstrate that their open fire will have no impact downwind.
2. The second permit, issued by the local fire authority, is for fire safety purposes.

Exceptions to the open burning prohibition in which the NDEQ may issue a written permit on a case-by-case basis include:

- Destruction of dangerous materials, diseased vegetation or abatement of a fire hazard;
- Destruction of straw used as winter insulation cover on agricultural products;
- Destruction of materials after cleanup of a natural disaster (for example tornados);
- Destruction of trees, brush and untreated lumber as a result of clearing land for construction or clearing for right-of-way; and
- Destruction of trees, brush, and untreated lumber at community sites.

“Treated” lumber and other wood products is material that has been changed or altered through a chemical process including the application paint, resin, preservatives, or other similar substances. Examples include, but are not limited to:

- Painted lumber and wood siding (e.g., from a house or other buildings, fences, or interior house trim);
- Glued particleboard or plywood (e.g., cabinets or flooring);
- Creosoted wood (e.g., railroad ties, telephone poles, bridge planks or fence posts);
- Stained wood flooring, doors, trim, cabinets, or decking); and
- Wood preserved with fungicide or pesticide (e.g., shingles, siding, or decking).

An individual, business, or community may apply for an open fire permit through the NDEQ Air Quality Division’s online application on our website. Individuals, businesses, or other entities wishing to conduct open fire activities must submit a General Open Fire Permit Application. Communities must submit the Community Open Fire Permit Application. The permit application forms identify the required information regarding the type and quantity of material proposed for burning, and where and when the applicant will conduct the open fire.

General Open Fire Permits are valid for up to six months. Community Open Fire Permits do not expire. A Community Open Fire Permit is restricted to destroying trees, brush, and untreated lumber at community disposal sites, and the burn area must be separate from the materials not intended for burning.

Within two weeks of receiving a completed application, the department will typically make a determination to issue or deny an open fire permit. Issued permits will state the period when open fires may be conducted, when the permit expires, required setbacks, and nuisance liability, as discussed above. NDEQ may inspect the open fire site prior to issuing a permit. For additional information, please contact the Air Quality Division at (402) 471-2189.

The following fires may be set without prior approval from the NDEQ provided they do not cause a public nuisance or traffic hazard. These fires still may require a permit from the local fire chief.

- *Fires set solely as part of a religious activity, for recreational purposes, or for outdoor cooking of food for human consumption on other than commercial premises;*
- *Fires set for training of public and industrial firefighting personnel;*
- *Fires set in the operation of smokeless flare stacks for the combustion of waste gases, provided they meet the requirements of Title 129, Chapter 20, Particulate Emissions; Limitations and Standards;*
- *Fires set in an agricultural operation for the destruction of trees or vegetation collected from the operation’s property, or for agriculturally related materials that are potentially hazardous and where disposal by burning is recommended by the manufacturer;*
- *Fires set to destroy household refuse on residential premises containing ten or less dwelling units, by individuals living on the premises (unless prohibited by local ordinances); and*
- *Fires set for plant or wildlife management, provided the Nebraska Game and Parks Commission, the US Forest Service, the University of Nebraska, or other groups as determined by NDEQ conduct such burning.*

Produced by: Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, NE 68509-8922, phone (402) 471-2186. To view this, and other information related to our agency, visit our web site at <http://deq.ne.gov>.