

**APPLICATION FOR APPROVAL
OPEN BURNING OPERATION**

The Kansas Department of Health & Environment, Bureau of Air has delegated authority for implementation of the Kansas Air Quality Regulations in Sedgwick County to the City of Wichita Environmental Health. All applications for approval to conduct an open burning operation within the boundaries of Sedgwick County that is not otherwise exempt from the prohibition on open burning imposed by Kansas Administrative Regulation (K.A.R.) 28-19-645 should be directed to this office. Each person seeking an approval to conduct an open burning operation is required by K.A.R. 28-19-647 to submit a written request containing the following:

APPLICANT INFORMATION

Name: _____ Company: _____

Address: _____, KS _____
(City) (ZIP)

Telephone: (_____) _____ - _____ FAX: (_____) _____ - _____

Individual(s) responsible for conducting the burn if other than the applicant:

Name: _____ Company: _____

Address: _____, KS _____
(City) (ZIP)

Telephone: (_____) _____ - _____ FAX: (_____) _____ - _____

OPEN BURNING DESCRIPTION

Location (address and/or legal description): _____

Estimated amount to be burned: _____

Nature of material to be burned: () Trees/Brush () Other _____
(description)

Proposed frequency of burning: () One Time () Other _____
(description)

Proposed duration of burning: () One day () Other _____
(description)

Proposed calendar schedule of burning: _____

Size of the area to which the burning will be confined: _____

Method of igniting the material: _____

Justification

State why the proposed open burning is necessary and in the public interest if the activity is not listed in K.A.R. 28-19-647(c): _____

Attachments

1. Attach a sketch identifying the burn site. Show the location of all public roadways and occupied dwellings within 1,000 feet, and airports within one mile of the proposed burn.
2. Attach evidence that the open burning has been approved by the fire control authority having jurisdiction over the area (such as a burn permit from the local fire district).

ACKNOWLEDGMENT

I have read and understand the Kansas Open Burning Regulations and agree to conduct all open burning in accordance with the required conditions as described in K.A.R. 28-19-647(e), including such additional conditions as may be deemed necessary to prevent emissions which may be injurious to human health, animal or plant life, or property; or which may unreasonably interfere with the enjoyment of life or property. I further understand that, at a minimum, these additional required conditions would include all conditions for open burning required by local jurisdictional authorities. It is mutually understood that representatives of the KDHE Bureau of Air may make unannounced inspections to determine compliance with the Regulations and any approvals granted, and that any non-compliance with the Regulations may be subject to legal actions and remedies. It is further understood that any approval granted may be revoked upon thirty (30) days notice or if approval from the local fire authority is withdrawn.

Applicant signature: _____ Date: _____

Submit application with attachments to:

**Air Quality Section
City of Wichita Environmental Health
1900 E. Ninth Street
Wichita, KS 67214
Phone: (316) 268-8351
Fax: (316) 858-7787**

KANSAS OPEN BURNING REGULATIONS

K.A.R. 28-19-645. Open burning prohibited.

A person shall not cause or permit the open burning of any wastes, structures, vegetation, or any other materials on any premises except as authorized by K.A.R. 28-19-647 and K.A.R. 28-19-648. (Authorized by K.S.A. 1994 Supp. 65-3005; implementing K.S.A. 1994 Supp. 65-3005, K.S.A. 65-3010; effective March 1, 1996.)

28-19-645a. Restrictions on open burning operations for certain counties during the month of April.

This regulation shall supersede K.A.R. 28-19-645 during the month of April for the counties listed in subsection (a) below.

(a) A person shall not cause or permit open burning operations of any waste, including vegetation and wood waste, structures, or any other materials on any premises during the month of April in Butler, Chase, Chautauqua, Cowley, Elk, Geary, Greenwood, Johnson, Lyon, Marion, Morris, Pottawatomie, Riley, Sedgwick, Wabaunsee, and Wyandotte counties, except as authorized by subsections (b) through (d).

(b) The following activities shall be exempt from the prohibition in subsection (a):

(1) Open burning operations for the purpose of range or pasture management and conservation reserve program (CRP) burning activities meeting the requirements in K.A.R. 28-19-648 (a)(1) through (a)(4); and

(2) open burning operations listed in K.A.R. 28-19-647 (a)(1) and (a)(2).

(c) A person may obtain approval by the secretary to conduct an open burning operation that is not otherwise exempt if the conditions and requirements of the following are met:

(1) K.A.R. 28-19-647 (b)(1) through (b)(3); and

(2) K.A.R. 28-19-647 (d) and (e).

(d) Open burning operations that shall require approval by the secretary and are deemed necessary and in the public interest shall include the open burning operations listed in K.A.R. 28-19-647 (c)(1) through (c)(3).

(e) In Johnson, Wyandotte, and Sedgwick counties, the open burning operations listed in K.A.R. 28-19-647 (c)(4) and (c)(5) shall require approval by the local authority.

(f) Nothing in this regulation shall restrict the authority of local jurisdictions to adopt more restrictive ordinances or resolutions governing agricultural open burning operations.

(Authorized by K.S.A. 2010 Supp. 65-3005; implementing K.S.A. 2010 Supp. 65-3005 and K.S.A. 65-3010; effective, T-28-3-1-11, March 1, 2011; effective Sept. 9, 2011.)

K.A.R. 28-19-646. Responsibility for open burning.

It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open burning. (Authorized by K.S.A. 1994 Supp. 65-3005; implementing K.S.A. 1994 Supp. 65-3005, K.S.A. 65-3010; effective March 1, 1996.)

K.A.R. 28-19-647. Exceptions to prohibition on open burning.

(a) The following open burning operations shall be exempt from the prohibition on the open burning of any materials imposed by K.A.R. 28-19-645:

- (1)** open burning carried out on a residential premise containing five or less dwelling units and incidental to the normal habitation of the dwelling units, unless prohibited by any local authority with jurisdiction over the premises;
- (2)** open burning for cooking or ceremonial purposes, on public or private lands regularly used for recreational purposes;
- (3)** open burning for the purpose of crop, range, pasture, wildlife or watershed management in accordance with K.A.R. 28-19-648; or
- (4)** open burning approved by the department [Kansas Department of Health and Environment] pursuant to paragraph (b).

(b) A person may obtain an approval from the department to conduct an open burning operation that is not otherwise exempt from the prohibition imposed by K.A.R. 28-19-645 if it is demonstrated that the open burning is:

- (1)** necessary, which in the case of burning for the purpose of disposal of any materials, shall mean that there is no other practical means of disposal;
- (2)** in the public interest; and
- (3)** is not prohibited by any local government or local fire authority.

(c) Open burning operations for which an approval is required but which are deemed to be necessary and in the public interest include the following:

- (1)** the use of safety flares for disposal of flammable gases;
- (2)** fires related to the training of government or industrial personnel in fire fighting procedures;
- (3)** fires set for the removal of dangerous or hazardous liquid materials;
- (4)** open burning of trees and brush from non-agricultural land clearing operations; and
- (5)** open burning of clean wood waste from construction projects carried out at the construction site.

(d) Each person seeking an approval to conduct an open burning operation pursuant to this regulation shall submit a written request to the department containing the following information:

- (1)** the location of the proposed open burning and the name, address and telephone number of the person responsible for the open burning;
- (2)** a description of the open burning including:
 - (A)** the estimated amount and nature of material to be burned;
 - (B)** the proposed frequency, duration and schedule of the burning;
 - (C)** the size of the area to which the burning will be confined;
 - (D)** the method of igniting the material;
 - (E)** the location of any public roadways within 1,000 feet of the proposed burn;
 - (F)** the number of occupied dwellings within 1,000 feet of the proposed burn;and
- (G)** evidence that the open burning has been approved by appropriate fire control authority having jurisdiction over the area; and

(3) the reason why the proposed open burning is necessary and in the public interest if the activity is not listed in subsection (c) of this regulation.

(e) Each open burning operation for which the department issues an approval pursuant to paragraph (b) shall be subject to the following conditions, except as provided in paragraph (f):

(1) The person conducting the burning shall stockpile the material to be burned, dry it to the extent possible before it is burned, and assure that it is free of matter that will inhibit good combustion.

(2) A person shall not burn heavy smoke-producing materials including heavy oils, tires, and tarpaper.

(3) A person shall not initiate burning during the nighttime, which for the purposes of this regulation is defined as the period from two hours before sunset until one hour after sunrise. A person shall not add material to a fire after two hours before sunset.

(4) A person shall not burn during inclement or foggy conditions or on very cloudy days, which are defined as days with more than 0.7 cloud cover and with a ceiling of less than 2,000 feet.

(5) A person shall not burn during periods when surface wind speed is less than 5 mph or more than 15 mph.

(6) A person shall not burn within 1,000 feet of any occupied dwelling, unless the occupant of that dwelling has been notified before the burn.

(7) A person shall not conduct a burn that creates a traffic or other safety hazard. If burning is to take place within 1,000 feet of a roadway, the person conducting the burn shall notify the highway patrol, sheriff's office, or other appropriate state or local traffic authority before the burning begins. If burning is to take place within one mile of an airport, the person conducting the burn shall notify the airport authority before the burning begins.

(8) The person conducting the burn shall insure that the burning is supervised until the fire is extinguished.

(9) The department may revoke any approval upon 30 days notice.

(10) A person shall conduct an open burning operation under such additional conditions as the department may deem necessary to prevent emissions which:

(A) may be injurious to human health, animal or plant life, or property; or

(B) may unreasonably interfere with the enjoyment of life or property.

(f) The department may issue an approval for an open burning operation that does not meet the conditions set forth in subsection (e) upon a clear demonstration that the proposed burning:

(1) is necessary and in the public interest;

(2) can be conducted in a manner that will not result in emissions which:

(A) may be injurious to human health, animal or plant life, or property; or

(B) may unreasonably interfere with the enjoyment of life or property; and

(3) will be conducted in accordance with such conditions as the department deems necessary. (Authorized by K.S.A. 1994 Supp. 65-3005; implementing K.S.A. 1994 Supp. 65-3005, K.S.A. 65-3010; effective March 1, 1996.)

K.A.R. 28-19-648. Agricultural open burning.

(a) Open burning of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management shall be exempt from the prohibition on the open burning of any materials imposed by K.A.R. 28-19-645, provided that the following conditions are met:

(1) the person conducting the burn shall notify the local fire control authority with jurisdiction over the area before the burning begins, unless the appropriate local governing body has established a policy that notification is not required;

(2) a person shall not conduct a burn that creates a traffic safety hazard. If conditions exist that may result in smoke blowing toward a public roadway, the person conducting the burn shall give adequate notification to the highway patrol, sheriff's office or other appropriate state or local traffic control authorities before burning;

(3) a person shall not conduct a burn that creates an airport safety hazard. If smoke may affect visibility at an airport, the person conducting the burn shall give adequate notification to the appropriate airport authorities before burning; and

(4) the person conducting the burn shall insure that the burning is supervised until the fire is extinguished.

(b) Nothing in this regulation shall restrict the authority of local jurisdictions to adopt more restrictive ordinances or resolutions governing agricultural open burning operations.

(Authorized by K.S.A. 1994 Supp. 65-3005; implementing K.S.A. 1994 Supp. 65-3005, K.S.A. 65-3010; effective March 1, 1996.)