

NEBRASKA ADMINISTRATIVE CODE

Title 129 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 30 - OPEN FIRES

001 No person shall cause or allow any open fires.

002 Exceptions:

002.01 Fires set solely as part of a religious activity, for recreational purposes or for outdoor cooking of food for human consumption on non-commercial premises, provided no nuisance or hazard is created.

002.02 Fires set for the purpose of training public and industrial fire fighting personnel.

002.03 Fires set in the operation of smokeless flare stacks for the combustion of waste gases, provided they meet the requirements of Chapter 20, Particulate Emissions; Limitations and Standards.

002.04 Fires set in an agricultural operation where no nuisance or traffic hazard is created. For the purpose of this regulation, "fires set in an agricultural operation" shall mean:

002.04A The burning of any trees or vegetation indigenous to the property of the owner or person in lawful possession of the land; and

002.04B The burning of any agriculturally related material that is potentially hazardous and where disposal by burning is recommended by the manufacturer. Such materials must have been used on the owner's property or person in legal possession of the said property.

002.05 Unless prohibited by local ordinances, fires set to destroy household refuse on residential premises containing ten or less dwelling units, by individuals residing on the premises and no nuisance or traffic hazard is created.

002.06 For the purpose of plant and wildlife and parks management, provided such burning is conducted by the Nebraska Game Commission, the United States Forest Service, the University of Nebraska, or other groups as determined by the Department.

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002.07 Unless prohibited by local ordinances or regulations, fires set in compliance with a general open fire permit or a community open fire permit issued by the Department:

002.07A For the purpose of the destruction of dangerous materials, diseased vegetation or abatement of a fire hazard.

002.07B For the purpose of destruction of trees, brush and other vegetation removed from road and utility right-of-ways.

002.07C For the purpose of the destruction of trees, brush, vegetation and untreated lumber generated as a result of land clearing, and construction activities.

002.07D For the purpose of the destruction of straw used as a winter insulating cover on agricultural products.

002.07E For the purpose of destroying untreated wood and trees at community land disposal sites. (Materials being burned must be in an area separate from materials not being burned).

002.07F For the purpose of destruction of materials after cleanup from a natural disaster.

002.07G In compliance with rules for air curtain incinerators in Chapter 22, sections 001 and 007.

002.08 Permits for open fires as specified in this regulation will be granted only if there is no other practical means of disposal. Any burning of materials not specified in the burning permit may result in withdrawal of the permit.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)

Legal Citation: Title 129, Ch. 30, Nebraska Department of Environmental Quality

EPA Rulemakings

CFR: 40 C.F.R. 52.1420(c)
 FRM: 81 FR 69693 (10/7/2016)
 PRM: 81 FR 69752 (10/7/2016)
 State Submission: 11/8/11
 State Final: 11/8/11 Adopted 12/4/2009 effective 7/3/10
 APDB File: NE-84A, EPA-R07-OAR-2016-0555 effective 12/6/16
 Description: This revision adds 002.07G and allows for the issuance of multiple operating permits to major sources; establishes requirements regarding opacity for air curtain incinerators; allows burning in an air curtain incinerator with a general or community open fire permit; and clarifies NDEQ's authority to order emission sources to make or have tests made to determine the rate of contaminant emissions from the source. Portions of the submittal had already been acted on previously.

CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln-Lancaster County Health Department, (j)
 FRM: 75 FR 48582 (08/11/2010)
 PRM: 75 FR 48628 (08/11/2010)
 State Submission: 05/27/2009
 State Final: 9/25/2005
 APDB File: NE-79
 Description: Chapter 30 changes clarifies language related to open fires, exemptions, permits, and allowable exceptions to the open fire ban to include fires set solely for religious activities. 002.08 alters the wording "will result in" to "may result in" to be consistent with normal state enforcement procedures.

CFR: 40 C.F.R. 52.1420(c)
 FRM: 68 FR 52694 (09/05/2003)
 PRM: 68 FR 52724 (09/05/2003)
 State Submission: 05/01/2003
 State Final: 11/20/2002
 APDB File: NE-59
 Description: This revision broadens the range of groups that may be issued open burning permits for the purpose of plant and wildlife parks management when approved by the Director.

CFR: 40 C.F.R. 52.1420(c)(41)
 FRM: 60 FR 372 (01/04/95)
 PRM: 60 FR 418 (01/04/95)
 State Submission: 2/16/94
 State Proposal: 12/17/93
 State Final: 6/26/94
 APDB File: NE-31
 Description: The EPA approved the renumbering of this rule as part of the overall recodification of the Nebraska rules. The rule was previously Chapter 15. A number of changes were made involving natural disasters and burning of vegetation and agricultural material.

Note: All previous versions of the rule are obsolete; the record of prior rulemakings is shown below for historical purposes only.

CFR: 40 C.F.R. 52.1420(c)(39)
 FRM: 56 FR 50515 (10/7/91)
 PRM: None
 State Submission: 3/8/91
 State Proposal: 12/7/90
 State Final: 2/20/91
 APDB File: NE-30
 Description: The EPA approved a revision as part of an update of a number of regulations. The exemption allowing the burning of wood wastes was amended to clarify that it pertains only to wood which is untreated.

CFR: 40 C.F.R. 52.1420(c)(37)
 FRM: 54 FR 21059 (5/16/89)
 PRM: None
 State Submission: 6/15/88
 State Proposal: /5/88
 State Final: 6/5/88
 APDB File: NE-21
 Description: The EPA reapproved this rule as Chapter 15 as part of an action to update the entire set of regulations in the Nebraska SIP.

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CFR: 40 C.F.R. 52.1420(c)(31)
FRM: 50 FR 23003 (5/30/85)
PRM: 49 FR 37427 (9/24/84)
State Submission: 10/6/83
State Proposal: 6/17/83
State Final: 9/30/83
APDB File: NE-18
Description: This revision allowed open burning for plant, wildlife, and parks management by three agencies. It was known as "Chapter 14" at the time of the revision.

CFR: 40 C.F.R. 52.1420(c)(8)
FRM: 40 FR 11778 (9/9/75); 41 FR 8956 (3/2/76)
PRM: 39 FR 24921 (7/8/74)
State Submission: 2/27/74
State Proposal: 12/14/73
State Final: 2/26/74
APDB File: NE-00
Description: Certain open burning operations became subject to permitting.

CFR: 40 C.F.R. 52.1420(c)(4)
FRM: 41 FR 8962 (3/2/76)
PRM: None
State Submission: 6/9/72
State Proposal: Unknown
State Final: 6/6/72
APDB File: NE-00
Description: As part of an action to clarify the list of SIP revisions submitted by the states, the EPA reapproved this rule. There was no apparent change to the regulation.

CFR: 40 C.F.R. 52.1420(a)
FRM: 37 FR 10842 (5/31/72)
PRM: None
State Submission: 1/28/72
State Proposal: Unknown
State Final: 6/6/72
APDB File: NE-00
Description: The EPA approved this as Rule 18 pertaining to open fires in the original SIP.

Difference Between the State and EPA-Approved Regulation

None.