Kansas Department of Health and Environment
Division of Environment Policy

Related to

Open Burning at KDHE Approved Tree and Brush Sites

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Background

Kansas currently has over 400 active open burn sites approved by KDHE primarily for burning trees and brush. Some sites have also been approved to burn other materials such as clean lumber and pallets. Many sites that are approved to burn only trees and brush have routinely added some clean wood to the burn pile and until recently, KDHE inspectors have not cited this practice. In 2000, the Bureau of Air and Radiation prepared a technical guidance document on Open Burning of Waste Wood (BAR 00-02) which explained that the open burning of waste lumber and pallets shall only occur when specifically approved following the department's determination that such burning is necessary or in the public's interest. That guidance document also states that the burning of clean wood waste is generally approved on a "one-time" basis only, implying that ongoing burning of such waste may not be conducted at permanent open burn sites.

Over the past year, KDHE began notifying owners and operators of approved open burn sites that the burning of clean lumber and pallets is prohibited. The shift in KDHE enforcement philosophy regarding open burning has led to confusion and concern, particularly when only small amounts of clean wood are burned with much larger volumes of trees and brush. In response, KDHE has reevaluated this issue and prepared this policy to clarify acceptable open burning practices at tree and brush sites.

Applicable Regulations and Environmental Considerations

Kansas Administrative Regulation (K.A.R.) 28-19-645 prohibits 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. K.A.R. 28-19-647 provides a mechanism for persons to request an exception to obtain an approval from KDHE to conduct an open burning operation not specifically falling under the listed exceptions. The purpose of the Kansas open burning regulations is to reduce the release of air contaminants in the ambient air through prohibiting or controlling the amount and type of open burning conducted in the state. Typical air contaminants resulting from open burning of materials including clean wood include fine particulate matter (PM), carbon monoxide, sulfur oxides, nitrogen oxides, and many organic compounds.

Federal solid waste regulations also prohibit the open burning of any residential, commercial, institutional, or industrial solid waste (40 CFR Part 257.3-7). This requirement does not apply to the burning of trees and brush generated in land clearing activity or as part of storm clean-up operations, or to the burning of grasses or other agricultural wastes in the field.

There are many health concerns associated with breathing the air pollutants found in wood smoke, including PM which can be inhaled and easily lodge in the deepest recesses of the lungs.

Children, the elderly, and persons with respiratory problems are at the greatest risks from high exposure to this fine particulate matter. The emissions of air contaminants, especially the finer PM into the ambient air, are also a concern due to airborne transport of fine PM across the state and the country.

Management Methods for Clean Wood Waste

There is a very large volume of trees, brush, and other clean wood waste generated each year in Kansas. The vast majority of this waste is trees and brush. Management methods for this waste include landfilling, burning, or recycling, primarily through grinding into mulch. While recycling is most desirable, it is not feasible to convert all clean wood waste to mulch. While landfilling trees and brush is feasible, it is not desirable because landfill space is limited and new facility siting is difficult. Burning can be carried out with or without air pollution controls, such as using an air curtain destruct unit. Burning without controls does contribute to air pollution.

Policy Decision

Based upon all factors, KDHE will continue to allow open burning of trees and brush without air pollution controls at most locations. Emissions controls may be required at some sites located in sensitive areas or near population centers. The burning of commercial and industrial-generated waste is prohibited at all tree and brush open burn sites with one exception - - incidental amounts of unpainted or untreated wood is allowed. For the purposes of this policy and associated inspection and enforcement procedures, "incidental amounts" shall mean a small number of boards or wooden pallets mixed with a much larger volume of trees and brush. In addition, the minor flow of boards or pallets into the site shall be random and associated with miscellaneous generators rather than a routinely generated commercial waste stream.

The owners or operators of open burn sites without emission controls shall not accept clean wood waste for burning from businesses which generate such waste as part of routine commercial or industrial operations. Such waste must be rejected or diverted for temporary storage and managed in one of the following ways:

- Landfilled in a facility permitted by KDHE
- Burned at a site with approved air pollution controls (e.g., air curtain destructor)
- Recycled or reused

Owners and operators may obtain assistance in evaluating recycling, reuse, and energy recovery by contacting KDHE's pollution prevention program (contact (785) 296-0669 or e-mail ccolglaz@kdhe.state.ks.us.).

Tree and Brush Open Burn Application Process

Guidelines for obtaining KDHE approval to operate tree and brush open burn follow:

1. Written application shall be made to the appropriate KDHE District Office (Chanute, Dodge City, Hays, Lawrence, Salina, or Wichita) or to the appropriate Local Agency Programs (Johnson, Sedgwick, Shawnee, and Wyandotte Counties only).

2. Written applications shall include the type of materials to be burned at the site (trees and brush only with incidental amounts of clean lumber or pallets), frequency of open burning, location, etc., to demonstrate compliance with K.A.R. 28-19-647; *Exceptions to prohibition on open burning.*
3. Written approvals from KDHE or the local agency may include additional and appropriate restrictions as conditions for the site-specific approval.
4. New approvals will state "The open burning of commercial and industrial-generated waste is prohibited, except for incidental amounts of clean wood wastes, including, but not limited to wooden pallets and/or discarded lumber."
5. Each currently approved Tree and Brush Burn Sites with an exemption to burn clean lumber will be given written notice of this KDHE policy and informed that future burning of such waste shall be limited to incidental amounts, as described above.

Inspection and Enforcement Procedures

This policy provides owners and operators with limited flexibility related to burning minor amounts of commercially generated clean wood. The policy and applicable regulations shall be enforced by KDHE as follows:

1. KDHE staff (or AQ contracted local agency staff) will inspect approved Open Burn Sites for Tree and Brush Only for compliance with K.A.R. 28-19-645 through 647, and specifically for site-specific approval conditions and restrictions contained in K.A.R. 28-19-647;*Exceptions to prohibition on open burning.* Site inspections may be routine site inspections or generated by complaint received by KDHE or contracted Local Agency staff.

2. KDHE/Local Agency staff field inspectors will note and document the presence of any commercial and industrial generated clean wood waste in the open burning area. When only "incidental amounts" of clean wood are present, no violation shall be cited; however, the inspector's report will include written comment about the presence of this material and instructional information about acceptable limits in uncontrolled burn sites. When an inspector identifies unacceptable materials (e.g., furniture, painted lumber, etc.) or greater than incidental amounts of clean wood in a burn pile, the site operator will be informed of the violation(s) and KDHE's intent to issue a Notice of Non Compliance (NON) for any observed non-compliance with K.A.R. 28-19-645 through 647. Site operators shall also be directed to contact the KDHE pollution prevention office to receive information on alternative management methods for excess clean wood waste in the burn pile. A NON will be issued and mailed to the responsible official for the open burn site.

3. Inspectors will document all identified non-compliance activities at approved tree and brush open burn sites in a written report including photographs. All documentation shall be referred to the Central Office in Topeka for enforcement decisions.

Questions and Answers

1. If a facility receives greater than incidental amounts of commercially generated clean wood, is it acceptable to store the wood on-site and feed it little by little into the burn pile?

   No. Such wood waste may be temporarily diverted from the burn pile and stored but only until an alternative disposal method is selected.

2. Can a facility sort good lumber and fix pallets for giving or selling to the public?

   Yes; however, large volume processing could require a solid waste processing facility permit.

3. If a business generates wood waste as part of its routine commercial or industrial activity can any of that waste be burned?

   No, such businesses must evaluate disposal and recycling options and select a management method other than uncontrolled open burning.

4. Is KDHE going to fine site owners or operators whenever greater than incidental amounts of waste wood are identified?

   KDHE's approach to identified non-compliance will be to warn and educate first. Repeat non-compliance could lead to enforcement actions which may include penalties.

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