

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 2. Incorporation By Reference

252:100-2-3. [AMENDED]

Subchapter 13. Open Burning

252:100-13-2. [AMENDED]

252:100-13-7. [AMENDED]

252:100-13-8. [AMENDED]

252:100-13-9. [AMENDED]

252:100-13-10. [AMENDED]

252:100-13-12. [NEW]

Subchapter 25. Visible Emissions and Particulates

252:100-25-5. [AMENDED]

Subchapter 31. Control of Emission of Sulfur Compounds

Part 5. New Equipment Standards

252:100-31-25. [AMENDED]

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. Included are changes or additions to 40 CFR Part 60, New Source Performance Standards (NSPS), and Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP). In addition, the Department is proposing to update language in Subchapter 2, Incorporation By Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q.

The Department is proposing to amend OAC 252:100-13, Open Burning, to clarify the requirements for "air curtain destructors" also known as "air curtain incinerators" and "open-pit incinerators." Air curtain destructors are combustion units that operate by forcefully projecting a curtain of air across an open, integrated combustion chamber (firebox) or open pit or trench in which the combustion occurs. The proposed rulemaking would primarily affect the owners and operators of air curtain destructors used on a temporary basis to burn trees, brush, and similar materials from land clearing, public health and safety, and disaster response activities. The affected entities include private as well as state, county, and municipal governmental entities. The Department is proposing changes to add flexibility in the operation of these units, including an extension of the allowed hours of operation. Additionally, the Department proposes to modify the rule to allow, under certain conditions, the transport of materials from the site where they are generated to the site where they would be burned.

The Department is proposing to move an existing continuous opacity monitoring requirement from OAC 252:100-31, Control of Emission of Sulfur Compounds, to OAC 252:100-25, Visible Emissions and Particulates, which is a more appropriate location. The proposal is not intended to add any additional requirement for facilities subject to either subchapter. However, the existing

language of OAC 252:100-25-5 has been modified to accommodate the change, to clarify the requirements and applicability, and to remove certain provisions that no longer apply.

AUTHORITY:

The powers and duties of the Environmental Quality Board are set out in 27A O.S. Section 2-2-101 and 27A O.S. Section 2-5-106 and those of the Air Quality Advisory Council in 27A O.S. Section 2-2-201 and 27A O.S. Section 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101 through -117, specifically 27A O.S. Section 2-5-105 for Subchapters 2, 13, 25, and 31 and Appendix Q; 27A O.S. Section 2-5-106.1 for Subchapter 13; 27A O.S. Section 2-5-112 for Subchapters 25 and 31; and 27A O.S. Section 2-5-114 for Subchapter 2 and Appendix Q.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 17, 2012. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the October 17, 2012 hearing and at the November 7, 2012 Environmental Quality Board meeting.

PUBLIC HEARINGS:

A public hearing is scheduled before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 17, 2012, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Also, a public hearing is scheduled before the Environmental Quality Board at 9:30 a.m. on Wednesday, November 7, 2012, at the CETES Center, Conference Room AB, 2800 Gore Blvd, Lawton, Oklahoma 73505.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 CFR Section 51.102 and 27A O.S. Section 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112(B)(9).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

RULE IMPACT STATEMENTS:

The rule impact statements will be available on and after September 17, 2012 on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for these proposals is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4218. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E.

Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

PROPOSED RULES:

Subchapter 13. Open Burning

252:100-13-2. [AMENDED]

252:100-13-7. [AMENDED]

252:100-13-8. [AMENDED]

252:100-13-9. [AMENDED]

252:100-13-10. [AMENDED]

252:100-13-12. [NEW]

SUMMARY:

The Department is proposing to amend OAC 252:100-13, Open Burning, to clarify the requirements for "air curtain destructors" also known as "air curtain incinerators" and "open-pit incinerators." Air curtain destructors are combustion units that operate by forcefully projecting a curtain of air across an open, integrated combustion chamber (firebox) or open pit or trench in which the combustion occurs. The proposed rulemaking would primarily affect the owners and operators of air curtain destructors used on a temporary basis to burn trees, brush, and similar materials from land clearing, public health and safety, and disaster response activities. The affected entities include private as well as state, county, and municipal governmental entities. The Department is proposing changes to add flexibility in the operation of these units, including an extension of the allowed hours of operation. Additionally, the Department proposes to modify the rule to allow, under certain conditions, the transport of materials from the site where they are generated to the site where they would be burned.

AUTHORITY:

The powers and duties of the Environmental Quality Board are set out in 27A O.S. Section 2-2-101 and 27A O.S. Section 2-5-106 and those of the Air Quality Advisory Council in 27A O.S. Section 2-2-201 and 27A O.S. Section 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101 through -117, specifically 27A O.S. Section 2-5-105 and 27A O.S. Section 2-5-106.1.

COMMENT PERIOD:

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to the State Implementation Plan (SIP) under the requirements of 40 CFR Section 51.102 and 27A O.S. Section 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112(B)(9).

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The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

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