SUBCHAPTER 13. OPEN BURNING

Section
252:100-13-1. Purpose
252:100-13-2. Definitions
252:100-13-3. Scope [REVOKED]
252:100-13-4. Effective date [REVOKED]
252:100-13-5. Open burning prohibited
252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]
252:100-13-7. Allowed open burning
252:100-13-9. General conditions and requirements for allowed open burning
252:100-13-10. Disaster relief
252:100-13-11. Responsibility for consequences of open burning

252:100-13-1. Purpose

The purpose of this Subchapter is to control the open burning of refuse and other combustible materials.

252:100-13-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Combustible materials" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"Domestic refuse" means combustible materials or refuse that normally result from the function of life at a residence, such as kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings. It does not include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances.

"Fire training" means a fire purposely set at as part of an organized program of drills for the training of firefighting personnel or for testing firefighting materials or equipment, which is part of a recognized training program.

"Man-made structure" means any structure constructed with the intent of providing shelter to persons or property. It does not include structures constructed specifically for live-burn fire training purposes.

"Land clearing operation" means the uprooting, cutting,

or clearing of vegetation in preparation for the construction of buildings, the development of residential, commercial, agricultural, or industrial properties, and for the construction and maintenance of right-of-ways. It does not include the clearing of vegetation such as trimmings, fallen limbs, branches, or leaves, or other wastes from routine property maintenance activities.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Open-pit incinerator" means a device consisting of a pit (into which the material to be combusted is placed) and nozzles, pipes, and other appurtenances designed and arranged in a manner to deliver additional air and/or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached.

"Products of combustion" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials.

"Refuse" means garbage, rubbish, domestic refuse and all other wastes generated by a trade, business, industry, building operation, or household.

252:100-13-3. Scope [REVOKED]

252:100-13-4. Effective date [REVOKED]

252:100-13-5. Open burning prohibited

The open burning of refuse and combustible materials is prohibited unless conducted in strict accordance with the conditions and requirements contained in 252:100-13-7 and 252:100-13-9. Under no circumstances shall the open burning of tires be allowed.

252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]

252:100-13-7. Allowed open burning

(a) **Fire training.** Open burning of man-made structures is allowed for~~ fires purposely set for the instruction and training of public and industrial fire-fighting personnel, provided that authorization has been requested from the local fire chief at least ten working days prior to any burning or that written authorization has been received prior to such burning. The DEQ may require written verification of the authorization from the local fire chief~~

~~or fire training officer.~~ the purposes of fire training, provided the following conditions are met. Industrial and commercial facilities and fire training schools conducting on-site live burn fire training are not subject to these conditions:

(1) A written request for authorization shall be submitted to the local fire chief or designee, and written authorization received prior to any burning for training purposes. Notification of the authorization shall be provided to the DEQ at least ten (10) days prior to the burning taking place. The authorization and notification shall document that the requirements of 252:100-13-7 (a)(2), (a)(3), (a)(4) and (a)(5) have been met; and

(2) Structures constructed prior to 1978 shall not be used for fire training unless the structure has been inspected by a certified inspector and determined free of lead-based paint as required by 40 CFR 745.227; and

(3) For any man-made structure, the entire structure, including, but not limited to, insulation, roofing, flooring, painted surfaces and plumbing, shall be examined for the presence of asphalt, asbestos and lead containing materials. All asphalt, asbestos and lead containing materials shall be removed from the structure prior to the fire training. Asbestos inspection and removal shall be conducted according to the requirements of 40 CFR 61.145; and

(4) For any man-made structure, the structure shall not be demolished prior to the fire training; and

(5) For any man-made structure located within 500 feet of another man-made structure, written notification of the planned burning must be given to the owner or occupants of the man-made structure(s) prior to requesting authorization for fire training; and

(6) Following the completion of fire training, all debris resulting from the training must be disposed of in the appropriate manner, as indicated in OAC 252:520-2-6(a).

(b) **Elimination of hazards.** Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:

(1) A fire hazard that cannot be abated by any other means.

(2) A dangerous or hazardous material when there is no other practical or lawful method of abatement or disposal if authorization is also received from the DEQ prior to such burning.

(c) **Recreational and ceremonial fires.** Open burning is allowed for camp fires and other fires used solely for recreational purposes, ceremonial occasions, or non-commercial preparation of food.

(d) **Land management and land clearing operations.** Open burning is allowed for the following land management and land clearing operations.

(1) Fires purposely set to forest, crop or range lands for a specific reason in the management of forests, crops or game, in accordance with practices recommended by the Oklahoma Department of Wildlife Conservation, the Oklahoma State Department of Agriculture, and the United States Forest Service.

(2) Fires purposely set for land clearing operations if conducted at least 500 feet upwind of any occupied residence other than those located on the property on which the burning is conducted, except that such burning must be conducted in open-pit incinerators in counties or areas that are or have been designated nonattainment.

(e) **Burning of domestic refuse.** Where no collection and disposal service is reasonably available, domestic refuse may be burned on the property where the waste is generated.

(f) **Hydrocarbon burning.** Open burning of hydrocarbons is allowed for:

(1) The disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Notice must be given to the DEQ prior to such burning.

(2) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEQ.

(g) **Open-pit incinerator.** Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Subchapter may be burned in an open-pit incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of the open-pit incinerator shall not accept any material owned by other persons and shall not transport any material to the property where the open-pit incinerator is located in order to burn the material.

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted as allowed in this Subchapter only if the

following conditions and requirements are met:

~~(1)~~(a) No public nuisance is or will be created.

~~(2)~~(b) The burning is controlled so that a ~~traffic~~ visibility hazard is not created on any roadway, rail track or air field as a result of the air contaminants being emitted.

~~(3)~~(c) The burning is conducted so that the contaminants do not adversely affect the ambient air quality ~~of a city or town.~~, and only when atmospheric conditions will readily dissipate contaminants. Consideration of ozone alert days should be taken.

~~(4)~~(d) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7~~(a),~~ (b), (c), ~~and~~ (d)(1) and (f)(2).

252:100-13-10. Disaster relief

Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEQ may allow the open burning of debris resulting from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

252:100-13-11. Responsibility for consequences of open burning

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.