

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

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 13. Open Burning
252:100-13-2 [AMENDED]
252:100-13-7 [AMENDED]
252:100-47-9 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

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None

INCORPORATIONS BY REFERENCE:

Incorporated standards:

Oklahoma Clean Air Act, 27A O.S., § 2-5-106.1, Controlled Open Burning - Fire Training

Incorporating rules:

252:100-13-7

Availability:

The standards are available to the public for examination at the Department of Environmental Quality office at 707 North Robinson, 4th Floor, Oklahoma City, Oklahoma

ANALYSIS:

The Department proposes to amend Subchapter 13, Open Burning. The Oklahoma legislature adopted requirements for activities to be considered fire training. The statute, Oklahoma Clean Air Act, 27A O.S., §2-5-106.1, became effective November 1, 2003. For conformity, the Department proposed incorporating the new statute by reference into the rule. Definitions of "fire training",

"human-made structure" and "yard brush" have been added to OAC 252:100-13-2. In order to address concerns over open burning of yard wastes, the Department proposes the addition of a provision to allow open burning of yard brush to OAC 252:100-13-7. Revisions to addresses general conditions and requirements for allowed open burning are proposed, including a correction made in Section 9 that will add an exemption for hydrocarbon flares from the prohibition against burning between sunset and sunrise.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 2004.

SUBCHAPTER 13. OPEN BURNING

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 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.

"Human-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.

"Yard brush" means cut or broken branches, leaves, limbs, shrubbery, or tree trimmings. It does not include refuse, grass clippings, in-ground tree stumps, or any non-vegetative material.

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.

252:100-13-7. Allowed open burning

When not prohibited by law or ordinance, the following types of burning are allowed, provided the conditions and requirements in 252:100-13-9 have been met:

- ~~(a)~~ (1) Fire training. ~~Open burning 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. Open burning of human-made structures for the purpose of fire training is allowed as provided for in Oklahoma Clean Air Act, 27A O.S., § 2-5-106.1. Industrial and commercial facilities and fire training schools conducting on-site live burn fire training are not subject to this provision.~~
- ~~(b)~~ (2) Elimination of hazards. ~~Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:~~
 - ~~(1)~~ (A) ~~A fire hazard that cannot be abated by any other means.~~
 - ~~(2)~~ (B) ~~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)~~ (3) 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)~~ (4) Land management and land clearing operations. ~~Open burning is allowed for the following land management and land clearing operations.~~
 - ~~(1)~~ (A) ~~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)~~ (B) ~~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)~~ (5) 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)~~ (6) Hydrocarbon burning. ~~Open burning of hydrocarbons is allowed for:~~
 - ~~(1)~~ (A) ~~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)~~ (B) 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)~~ (7) **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.

(8) **Yard brush.** Yard brush may be burned on the property where the waste is generated.

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) No public nuisance is or will be created.

(2) 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) The burning is conducted so that the contaminants do not adversely affect the ambient air quality ~~of a city or town.~~

(4) 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)~~ 252:100-13-7(2), (3), (4)(A) and (6)(B).