

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas

252:100-8-36.2 [AMENDED]

Subchapter 13. Open Burning

252:100-13-7 [AMENDED]

252:100-13-10 [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to amend the source obligation provisions for facilities subject to prevention of significant deterioration (PSD) in OAC 252:100-8-36.2 to more closely align Oklahoma's rules with the U.S. Environmental Protection Agency (EPA) rules in 40 C.F.R. § 51.166(r). This proposed rulemaking is in response to requests from industry to add the "reasonable possibility" provisions. The gist of the proposed rules and the underlying reasons for the revisions are to make Oklahoma's PSD source obligation provisions match those of the EPA, and to reduce the recordkeeping burden on Oklahoma's permitted PSD facilities.

The Department is also proposing to amend the open burning provisions in Subchapter 13 in order to allow entities to request, from the Executive Director, a waiver from the requirement to use an air curtain incinerator (ACI) to burn land clearing debris in sparsely populated areas of the metropolitan statistical areas (MSAs) of more than 900,000 people. The gist of the proposed rules and the underlying reason for these revisions is to reduce the regulatory burden for open burning of land clearing debris in areas where there will be no expected impact on human health or the environment.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, and 2-5-106.

Air Quality Advisory Council; 27A O.S. §§ 2-2-201 and 2-5-107.

Oklahoma Clean Air Act; 27A O.S. §§ 2-5-101 through 2-5-117.

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 15, 2020, through January 15, 2021. Oral comments may be made at the January 20, 2021 hearing and at the February 19, 2021 Environmental Quality Board hearing.

PUBLIC HEARING:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 20, 2021, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, OK 73102. If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Friday, February 19, 2021, at the DEQ headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102.

In the event the current state of emergency declaration is extended by the Governor and the statutory authorization within the Open Meetings Act, as amended by SB 661 (2020), is extended beyond the current expiration date of November 15, 2020, the Air Quality Advisory Council and Environmental Quality Board meetings may both take place at the specified dates and times via videoconference and/or teleconference in compliance with the Open Meetings Act. Members of

the Council or the Board (as appropriate) and public may then participate via videoconference and/or teleconference. If a videoconference and/or teleconference is necessary, details will be available from the contact person or obtained online at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/> for the Air Quality Advisory Council or <https://www.deq.ok.gov/council-meetings/environmental-quality-board/> for the Environmental Quality Board.

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

REQUESTS 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, recordkeeping, 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:

Copies of the proposed rules may be obtained from the contact person, reviewed at the DEQ headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102, or reviewed online at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and available on and after December 15, 2020, on the DEQ Air Quality Division website at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>. Copies may also be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Melanie Foster, Environmental Programs Manager, who can be reached by phone at (405) 702-4100. Please email written comments to AQDRuleComments@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677, ATTN: Melanie Foster. 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) 702-4177. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.