

**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]

252:100-13-5. [AMENDED]

252:100-13-7. [AMENDED]

252:100-13-8. [AMENDED]

252:100-13-8.1 [NEW]

252:100-13-9. [AMENDED]

Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas

252:100-39-49. [REVOKED]

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

**SUMMARY:**

The Department is proposing to amend Oklahoma Administrative Code (OAC) 252:100-13, Open Burning, to conform the Department of Environmental Quality (DEQ) rules to statutory changes enacted in the 2019 legislative session. DEQ is also proposing to add a new section, 252:100-13-8.1, for this same purpose. The law changes added a provision for open burning of certain medical marijuana plant parts, and modified when an air curtain incinerator (ACI) is required. The proposed rulemaking would primarily affect the owners and operators of ACIs used outside of the Oklahoma City and Tulsa Metropolitan Statistical Areas, as well as medical marijuana commercial licensees, medical marijuana research facilities, and medical marijuana education facilities. In addition, changes were made in Section 13-2, Definitions, to reflect an update in terminology from "watch" to "alert" for ozone and particulate matter notifications. Section 13-7(1), Fire training, was also amended to clarify specific inspection and removal requirements as provided for in the Oklahoma Clean Air Act. The gist of this rulemaking is to implement the statutory changes made in the 2019 legislative session to add a provision for open burning of certain medical marijuana plant parts, and to modify when an ACI is required, as well as to make other minor clarifications to the rule.

The Department is proposing to amend OAC 252:100-39 to revoke Section 49, Manufacturing of fiberglass reinforced plastic products. The originally intended applicability of this rule is no longer practical with the promulgation of 40 CFR Part 63, Subpart WWWW - National Emission Standard for Hazardous Air Pollutants (NESHAP): Reinforced Plastic Composites Production. The gist of this rule proposal is to ease the regulatory burden on applicable facilities by revoking an outdated rule that was dually regulating alongside the federal NESHAP Subpart WWWW.

The Department is proposing to revoke and replace OAC 252:100, Appendix Q, Incorporation by Reference. In addition, the Department is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of Environmental Protection Agency (EPA) regulations in Appendix Q. The gist of these rule proposals and the underlying

reason for the rulemaking is to incorporate the latest changes to EPA regulations, primarily those relating to the NESHAPs and New Source Performance Standards (NSPS).

**AUTHORITY:**

Environmental Quality Board; 27A Okla. Stat. (O.S.) Sections 2-2-101, 2-2-201, and 2-5-106.  
Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107.  
Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through -117.

**COMMENT PERIOD:**

Written comments may be submitted to the contact person from September 3, 2019, through October 7, 2019. Oral comments may be made at the October 16, 2019 hearing and at the November 8, 2019 Environmental Quality Board hearing.

**PUBLIC HEARING:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 16, 2019, 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 Tuesday, November 8, 2019, at Woodward Conference Center, 3401 Centennial Drive, Woodward, OK 73801.

The Air Quality Advisory Council hearing shall also serve as the public hearing 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).

**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 Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <https://www.deq.ok.gov/council-meeting-single/?meetingid=NTIwMg==>.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after September 3, 2019 on the DEQ Air Quality Division website at <https://www.deq.ok.gov/council-meeting-single/?meetingid=NTIwMg==>. Copies may also be obtained from the Department by calling the contact person listed below.

**CONTACT PERSON:**

The contact person for these proposals 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](mailto: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) 702-4172. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.