

**OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100 AIR POLLUTION CONTROL RULES
SUMMARY OF COMMENTS AND STAFF RESPONSES
FOR PROPOSED REVISION TO
OKLAHOMA ADMINISTRATIVE CODE (“OAC”) 252:100-13. OPEN BURNING**

**COMMENTS RECEIVED PRIOR TO THE *OCTOBER 16, 2019*
AIR QUALITY ADVISORY COUNCIL MEETING**

Written Comments

United States Environmental Protection Agency (EPA) Letter submitted as an attachment to an email received on October 2, 2019 from Ms. Mary A. Stanton, Chief, Infrastructure and Ozone Section. The letter set forth the following suggested revisions to the proposed language of OAC 252:100-13-7(8) and provided the following comments:

As for the proposed revisions to ODEQ Regulation 13, Open Burning, as a result of the Oklahoma Medical Marijuana Waste Management Act (Act), passed by the Oklahoma Legislature in May 2019, ODEQ should clearly define the new provision (8) terms, as they are specifically defined in the Act:

252:100-13-7 Allowed Open Burning, provision (8):

“Certain medical marijuana plant refuse. Commercial licensees, medical marijuana research facilities, and medical marijuana educational facilities, as those terms are defined in the Oklahoma Statutes at Section 428 of Title 63 titled, the Oklahoma Medical Marijuana Waste Management Act (Act), are allowed to open burn the parts of the marijuana plant grown to produce medical marijuana, (as prescribed in Section 429 of Title 63 of the Act as: 1. Root balls; 2. Stems; 3. Fan leaves; and 4. Seeds) and are exempted from the term “Medical marijuana waste” as defined in the Oklahoma Statutes at Section 428 of Title 63 of the Act Oklahoma Statutes.

- 1. COMMENT:** “[M]edical marijuana,” “medical marijuana plant refuse,” “commercial licensees,” “medical marijuana research facilities” and “medical marijuana educational facilities” should be defined or at least qualified with a reference to the Act (and applicable Sections thereof), as those terms are defined under the Act. Please see the redline above for suggested changes.

RESPONSE: The Oklahoma Department of Environmental Quality Air Quality Division staff agrees with the suggested reference to the act and has incorporated the addition of “as those terms are defined in the Oklahoma Statutes at Section 428 of Title 63 titled, the Oklahoma Medical Marijuana Waste Management Act (Act).”

- 2. COMMENT:** Under the Act, at Section 429 of Title 63, commercial licensees, medical marijuana research facilities and medical marijuana education facilities are authorized to destroy certain marijuana plant parts without being required to obtain the services of a

medical marijuana waste disposal facility. In the proposed SIP revision, such entities may open burn “parts of the marijuana plant grown to produce medical marijuana.” However, that term is not defined in the proposed SIP revision. The Act clearly defines this term to include 1. root balls, 2. stems, 3. fan leaves, and 4. seeds. The final SIP revision should be made clear as this is an exemption from having to dispose of these plant parts by a licensed medical waste disposal facility. Please see the redline above for suggested changes.

RESPONSE: Staff accepts EPA’s redline language referencing 63 OKLA. STAT. §429. However, staff does not believe it is necessary to explicitly state in the rule what is included in the term “parts of the marijuana plant grown to produce medical marijuana.” This is because there are inconsistencies in the Act between Sections 428 and 429. Citing Section 429 instead of delineating the specific parts of the plant allows DEQ to align the rule with the statute.

3. **COMMENT:** There appears to be a missing word that is indicated in red above – “are.”

RESPONSE: Staff accepts the addition of “are” to the proposed language of OAC 252:100-13-7(8).

4. **COMMENT:** It is unclear what commercial licensees, medical marijuana research facilities, and medical marijuana education facilities are exempted from when “exempted from the term Medical Marijuana Waste” under Section 428 of the Act. There already appears to be an exception in the Act such that medical marijuana waste does not include “roots, stems, stalks, and fan leaves.” Please clarify.

RESPONSE: The exemption applies to the parts of the marijuana plant that are not considered medical marijuana waste as specified in 63 OKLA. STAT. § 429. It does not refer to the commercial licensees, medical marijuana research facilities, and medical marijuana education facilities. Staff has changed “and are exempted from the term” to “**that** are exempted from the term” to clarify this reference.

5. **COMMENT:** The proposed revisions to 252:100-13-8 and 100-13-8.1 address areas that “... are or have been designated nonattainment” Please specify whether this is intended to mean areas designated by the Environmental Protection Agency as nonattainment for one or any of the national ambient air quality standards.

RESPONSE: Yes, staff intended the cited language to mean any areas in Oklahoma that are, or have been, designated nonattainment for any national ambient air quality standard. Staff believes no changes to the rule are necessary.

6. **COMMENT:** Please address how the proposed revisions meet the requirements under Clean Air Act section 110(l).

RESPONSE: Staff is proposing these rule changes to align the OAC with recent legislative changes to the Oklahoma Statutes. Further, staff does not believe the proposed rule changes will interfere with Oklahoma’s attainment of any of the National Ambient Air Quality

Standards. In addition, OAC 252:100-13-9. *General conditions and requirements for allowed open burning*, states, “The open burning of refuse and other combustible material may be conducted only if the following conditions and requirements are met: ... (3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.”