

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:100-1-3 [AMENDED]

Subchapter 2. Incorporation by Reference

252:100-2-3 [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1 [AMENDED]

252:100-7-2 [AMENDED]

Part 3. Construction Permits

252:100-7-15 [AMENDED]

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

Part 5. Permits for Part 70 Sources

252:100-8-4 [AMENDED]

Subchapter 13. Open Burning

252:100-13-7 [AMENDED]

252:100-13-8 [AMENDED]

252:100-13-8.1 [AMENDED]

Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills

252:100-47-2 [AMENDED]

252:100-47-3 [AMENDED]

252:100-47-5 [AMENDED]

252:100-47-6 [AMENDED]

252:100-47-7 [AMENDED]

252:100-47-8 [AMENDED]

252:100-47-9 [AMENDED]

252:100-47-10 [AMENDED]

252:100-47-11 [AMENDED]

252:100-47-12 [AMENDED]

252:100-47-13 [AMENDED]

252:100-47-14 [AMENDED]

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to revoke and replace Oklahoma Administrative Code (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 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 New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 C.F.R. Parts 60, 61, and 63.

The Department is proposing to amend OAC 252:100, Subchapters 1, 7, and 8, to allow for certain construction activities to be conducted at the owner/operator's risk after submission of an administratively complete minor New Source Review (NSR) permit application but prior to issuance of the construction permit. The Department is also proposing to revise OAC 252:100-7-15(a)(2)(B)(i) to give regulatory clarity to when a construction permit is required by inserting the federal terms for pieces of equipment and processes subject to NESHAP and NSPS.

The Department is proposing to amend OAC 252:100-13, Open Burning, to conform the Department's rules to statutory changes enacted in the 2021 legislative session. Senate Bill 246 (2021) changed 27A Okla. Stat. (O.S.) § 2-5-130 to only require an air curtain incinerator (ACI) be used in counties or areas within a county that are or have been designated nonattainment or where an ambient air quality monitor has documented a violation of the National Ambient Air Quality Standards (NAAQS), or those counties with a population of greater than 500,000. The gist of this rulemaking is to implement the above-mentioned statutory changes to restrict the areas where an ACI is required for land clearing operations, or the burning of clean wood waste or yard brush.

The Department proposes to amend OAC 252:100, Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills. The gist of the proposed rule is to incorporate new federal guidelines into the state rules. The proposed rule would implement the provisions of 40 C.F.R. Part 60, Subpart Cf, the federal emission guidelines published by EPA in the Federal Register on August 29, 2016 (81 FR 59313). Upon promulgation, the revised Subchapter 47 will be incorporated into Oklahoma's revised State 111(d) Plan. The proposed rules affect municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before July 17, 2014 and accepted waste after November 8, 1987, including closed landfills. Landfill gas collection and control systems will be required for landfills with design capacities of at least 2.5 million megagrams and 2.5 million cubic meters which have estimated emissions of at least 34 megagrams per year of non-methane organic compounds (NMOC). The previous NMOC threshold to install a control system was 50 megagrams per year.

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.

Oklahoma Uniform Permitting Act; 27A O.S. §§ 2-14-101 through 2-14-304.

COMMENT PERIOD:

Written comments may be submitted to the contact person from September 15, 2021, through October 15, 2021. Oral comments may be made at the October 20, 2021 Air Quality Advisory Council meeting and at the November 9, 2021 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 20, 2021, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

In the event a state of emergency is declared by the Governor to respond to COVID-19, and, therefore, the provisions of 25 O.S. § 307.1(C) become applicable, the meeting will be before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 20, 2021, via videoconference or teleconference in compliance with the Open Meetings Act, 25 O.S. § 307.1(C) as amended by SB 1031 (2021). Members of the Council and public may attend via videoconference or teleconference. Videoconference or teleconference details may be obtained from the contact person or online at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/> when the agenda of the hearing is published at least 24 hours prior to the meeting.

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 9, 2021, at the DEQ Headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102, or in the event of sufficient improvement of the current public health situation, at the Tri County Tech, 6101 SE Nowata Rd., Bartlesville, OK 74006. If necessary, the Environmental Quality Board meeting may take place at the specified date and time via videoconference or teleconference in compliance with the Open Meetings Act, 25 O.S. § 307.1(C) as amended by SB 1031 (2021), if a state of emergency is declared by the Governor to respond to COVID-19 and therefore said provisions of the Open Meetings Act are applicable. Videoconference, teleconference, or change of venue details may be obtained thirty (30) days prior to the meeting date from the contact person or obtained online at <https://www.deq.ok.gov/council-meetings/environmental-quality-board/> for the Environmental Quality Board meeting.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (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).

REQUEST 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, OK 73102, or reviewed online at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>.

RULE IMPACT STATEMENTS:

Pursuant to 75 O.S. § 303(D), a rule impact statement was prepared and is available on the DEQ 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.