

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

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:

"Air curtain incinerator," "air curtain destructor," or "open pit incinerator" means an incineration unit operating by forcefully projecting a curtain of air across an open, integrated combustion chamber (fire box) or open pit or trench (trench burner) in which combustion occurs.

"Clean lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote, or manufactured wood products that contain adhesives or resins (e.g., plywood, particle board, flake board, and oriented strand board).

"Clean wood waste" or "wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

(A) Grass, grass clippings, bushes, shrubs and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

(B) Construction, renovation, or demolition wastes.

(C) Clean lumber.

(D) Treated wood and treated wood products, including wood products that have been painted, pigment-stained, or pressure treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote, or manufactured wood products that contain adhesives or resins (e.g., plywood, particle board, flake board, and oriented strand board).

"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, or the removal or destruction of human-made structures.

"Metropolitan Statistical Area" or "MSA" means a core area containing a substantial population nucleus, together with adjacent communities having a high degree of economic and social integration with that core, as defined by the federal Office of Management and Budget.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Ozone WatchAlert" means an announcement by the DEQ that the ozone concentrations in the watchalert area are forecasted to exceed the National Ambient Air Quality Standard. The Ozone WatchAlert applies to the day following the announcement.

"Particulate Matter WatchAlert," or "PM WatchAlert" means an announcement by the DEQ that the particulate matter concentrations in the watchalert area are forecasted to exceed the National Ambient Air Quality Standard. The PM WatchAlert applies to the day following the announcement.

"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.

"Wood waste" means ~~untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:~~

~~(A) Grass, grass clippings, bushes, shrubs and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.~~

~~(B) Construction, renovation, or demolition wastes.~~

~~(C) Clean lumber.~~

~~(D) Treated wood and treated wood products, including wood products that have been painted, pigment stained, or pressure treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote, or manufactured wood products that contain adhesives or resins (e.g., plywood, particle board, flake board, and oriented strand board).~~

"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 OAC 252:100-13-7, 252:100-13-8, 252:100-13-8.1, and 252:100-13-9. ~~Except as allowed in 252:100-13-8(1), no person shall accept any material owned by other persons nor transport combustible material from where it is generated to another location in order to perform open burning.~~ 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 OAC 252:100-13-9 have been met:

(1) **Fire training.** Open burning of human-made structures for the purpose of municipal fire department training is allowed as provided for in the Oklahoma Clean Air Act, 27A O.S., Section 2-5-106.1. For any human-made structure, the entire structure, including, but not limited to, insulation, roofing, flooring, painted surfaces and plumbing, shall be examined for

the presence of asphalt, asbestos, and lead-containing materials. All asphalt, asbestos, and lead-containing materials shall be removed from the structure prior to the fire training. Asbestos inspection and removal shall be conducted according to the requirements of federal law. Federal law requires a certified asbestos inspector, and notification of any activity that would breakup or dislodge asbestos, such as stripping or removal work, at least 10 working days prior to activity commencement, as specified in 40 CFR 61.145. Industrial and commercial facilities and fire training schools may conduct on-site live burn fire training.

(2) **Elimination of hazards.** Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:

(A) A fire hazard that cannot be abated by any other means.

(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.

(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.

(4) **Land management and land clearing operations.** Open burning is allowed for the following land management and land clearing operations:

(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 Department of Agriculture, Food, and Forestry, and the United States Forest Service.

(B) Fires purposely set for land clearing operations if conducted at least 500 feet ~~upwind~~ ~~offrom~~ any occupied residence other than those located on the property on which the burning is conducted. Such burning shall be conducted using an air curtain incinerator in counties or areas that are or have been designated nonattainment, or in ~~the two~~ MSAs with a population of greater than nine hundred thousand people according to the latest federal decennial census. ~~The Oklahoma City MSA consists of Canadian, Cleveland, Grady, Lincoln, Logan, McClain, and Oklahoma Counties. The Tulsa MSA consists of Creek, Okmulgee, Osage, Pawnee, Rogers, Tulsa, and Wagoner Counties.~~

(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.

(6) **Hydrocarbon burning.** Open burning of hydrocarbons is allowed for:

(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.

(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.

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

(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) that are

exempted from the term “Medical marijuana waste” as defined in the Oklahoma Statutes at Section 428 of Title 63 of the Act.

252:100-13-8. Use of air curtain incinerators

(a) Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Chapter may be burned in an air curtain incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of an air curtain incinerator located in an MSA with a population of greater than nine hundred thousand people or in counties or areas that are or have been designated nonattainment shall not accept any material owned by other persons and shall not transport any material to the property where the air curtain incinerator is located in order to burn the material, except as provided in OAC 252:100-13-8(a)(1).

(1) The owner or operator of the air curtain incinerator located in an MSA with a population of greater than nine hundred thousand people or in counties or areas that are or have been designated nonattainment may accept and/or transport:

- (A) 100 percent wood waste,
- (B) 100 percent clean lumber, or
- (C) 100 percent mixture of wood waste and clean lumber.

(2) In addition to the requirements in this subchapter, the owner or operator of the air curtain incinerator must comply with the requirements of OAC 252:100-17 and 40 CFR Part 60.

(b) For land clearing operations and disposal of clean wood waste and yard brush, an ACI is not required except in counties or areas that are or have been designated nonattainment or in an MSA with a population of greater than nine hundred thousand according to the latest federal decennial census.

252:100-13-8.1. Transported material

(a) Combustible material obtained from land clearing operations, yard brush, and clean wood waste may be transported from where it is generated to another location in order to perform open burning. Material transported in order to perform open burning must meet the following conditions:

(1) The open burning shall not be conducted in counties or areas that are or have been designated nonattainment, or in MSAs with a population of greater than nine hundred thousand.

(2) The material shall be burned within 90 days of being transported.

(3) The volume of material shall not exceed 10,000 cubic feet.

(b) Except in accordance with OAC 252:100-13-8(a) or 252:100-13-8.1(a) above, no person shall accept any material owned by other persons nor transport combustible material from where it is generated to another location in order to perform open burning.

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted 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 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 OAC 252:100-13-7(2), (3), (4)(A), (6)(B), and 252:100-13-8.

(5) An Ozone or PM ~~Watch~~Alert has not been declared for the day of the burn for the MSA or county in which the burn is to be performed. This requirement does not apply to the open burning allowed under 252:100-13-7(2), (3), and (6)(B).

(6) Open burning of waste generated from commercial operations shall be conducted at least 500 feet from any occupied structure other than those located on the property on which the burning is conducted.