

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

SUBCHAPTER 13. OPEN BURNING

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 from any occupied residence other than those located on the property on which the burning is conducted and in accordance with OAC 252:100-13-8. ~~Such burning shall be conducted using an air curtain incinerator in counties or areas that are or have been designated nonattainment, or in MSAs with a population of greater than nine hundred thousand people according to the latest federal decennial census.~~

(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 or transported. If transported, yard brush must be burned in accordance with OAC 252:100-13-8 and OAC 252:100-13-8.1.

(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.

(9) Wood waste, clean lumber, or a mixture of only wood waste and clean lumber may be burned in accordance with OAC 252:100-13-8 and 252:100-13-8.1.

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~~ 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~~ 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 accordance with OAC 252:100-13-8(a)(1)~~ OAC 252:100-13-8.1.

~~(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 transported yard brush, an ACI is ~~not required except in counties or areas within a county 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.~~

(1) are or have been designated nonattainment for National Ambient Air Quality Standards (NAAQS) or where the Department-certified ambient air quality monitoring data documents a violation of primary NAAQS prior to such determination, or

(2) have a population of greater than five hundred thousand (500,000) people according to the latest Federal Decennial Census.

(c) 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.

252:100-13-8.1. Transported material

(a) Combustible material obtained from land clearing operations, yard brush, ~~and~~ clean wood waste, and clean lumber 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 within a county that are or have been designated nonattainment or where the Department-certified ambient air quality monitoring data documents a violation of primary NAAQS prior to such determination, or in MSAs with a population of greater than ~~nine~~ five hundred thousand, except in accordance with OAC 252:100-13-8(b).

(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.