

## SUBCHAPTER 13. OPEN BURNING

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### **252:100-13-1. Purpose**

The purpose of this Subchapter is to control the open burning of refuse and other combustible materials.

### **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).

**"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.

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

**"Particulate Matter Watch," or "PM Watch"** means an announcement by the DEQ that the particulate matter concentrations in the watch area are forecasted to exceed the National Ambient Air Quality Standard. The PM Watch 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.

**252:100-13-3. Scope [REVOKED]**

**252:100-13-4. Effective date [REVOKED]**

**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 252:100-13-7, 252:100-13-8 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.

**252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]**

**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. Industrial and commercial facilities and fire training schools may conduct on-site live burn fire training.

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(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 of 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. 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.

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

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 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 (1).

(1) The owner or operator of the air curtain incinerator 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.

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(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.

**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 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).

**252:100-13-10. Disaster relief**

Notwithstanding the prohibition in OAC 252:100-13-5, the Executive Director of the DEQ may allow the open burning of debris resulting from a disaster if the Executive Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

**252:100-13-11. Responsibility for consequences of open burning**

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.