

3745-19-01

Definitions.

As used in this chapter:

- (A) "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings (including dismantled/fallen barns); garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.
- (B) "Air curtain burner" means an engineered apparatus consisting of a motorized high-velocity fan and an air distribution system designed to aid in the efficient combustion of materials placed in a manufactured steel structure and for which a permit-to-install has been obtained as required in Chapter 3745-31 of the Administrative Code and a permit-to-operate has been obtained as required in Chapter 3745-77 of the Administrative Code.
- (C) "Air curtain destructor" means an engineered apparatus consisting of a motorized high-velocity fan and an air distribution system designed to aid in the efficient combustion of materials placed in an adjacent pit. An air curtain burner may be used in place of an air curtain destructor, but an air curtain destructor may not be used in place of an air curtain burner.
- (D) "Building materials" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways.
- ~~(D)~~(E) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliant.
- ~~(E)~~(F) "Emergency burning" means the burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following:
- (1) A tornado.
 - (2) High winds.
 - (3) An earthquake.
 - (4) An explosion.
 - (5) A flood.

(6) A hail storm, a rain storm, or an ice storm.

~~(F)~~(G) "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.

~~(G)~~(H) "Inhabited building" means any inhabited private dwelling house and any public structure which may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public. Examples would include, but are not limited to, highway rest stops, restaurants, motels, hotels and gas stations.

~~(H)~~(I) "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residues.

~~(I)~~(J) "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.

~~(J)~~(K) "Ohio EPA" means the Ohio environmental protection agency director or agencies delegated authority by the director of the Ohio environmental protection agency pursuant to section 3704.03 of the Revised Code or the chief of any Ohio environmental protection agency district office.

~~(K)~~(L) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of rule 3745-17-09 or 3745-17-10 of the Administrative Code.

~~(L)~~(M) "Residential waste" means any waste material, including landscape waste, generated on the property of a one-, two- or three-family residence as a result of residential activities, but not including garbage, rubber, grease, asphalt, liquid petroleum products, or plastics.

~~(M)~~(N) "Restricted area" means the following:

- (1) Except as provided in paragraph ~~(K)(2)~~ (N)(2) of this rule, the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Revised Code, plus a zone extending one thousand feet beyond the boundaries of any such municipal corporation having

a population of one thousand to ten thousand persons and a zone extending one mile beyond any such municipal corporation having a population of ten thousand persons or more according to the latest federal census.

- (2) "Restricted area" shall not include any municipal corporation the territory of which is located on an island in Lake Erie except that, during the yearly period between Memorial Day and Labor Day, any such municipal corporation shall be required to comply with the requirements of rule 3745-19-03 of the Administrative Code.

~~(N)~~(O) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in paragraph ~~(M)~~ (N) of this rule.

~~(O)~~(P) Referenced materials. This chapter includes references to certain matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials as well as the date of, and/or the particular edition or version of the material is included in this rule. For materials subject to change, only the specific versions specified in this rule are referenced. Material is referenced as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not applicable unless and until this rule has been amended to specify the new dates.

- (1) Availability. The referenced materials are available as follows:

- (a) Clean Air Act. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the act as amended in 1990 is also available in electronic format at www.epa.gov/oar/caa/. A copy of the act is also available for inspection and use at most public libraries and "The State Library of Ohio."
- (b) Code of Federal Regulations (CFR). Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at <http://www.ecfr.gov>. The CFR compilations are also available for inspection and use at most public libraries and "The State Library of Ohio."
- (c) National fire protection association. Information on the national protection association codes may be obtained by contacting the association at 1 Batterymarch park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered www.nfpa.org/catalog/home/index.asp. Copies of

the code exist or are available at most public libraries and "The State Library of Ohio."

(2) Referenced materials.

- (a) 40 CFR 60.2974; "Am I required to apply for and obtain a title V operating permit for my air curtain incinerator that burns only wood waste, clean lumber, and yard waste?;" as published in the July 1, ~~2012~~2017 Code of Federal Regulations.
- (b) 40 CFR 60.3069; "Am I required to apply for and obtain a title V operating permit for my air curtain incinerator that burns only wood waste, clean lumber, and yard waste?;" as published in the July 1, ~~2012~~2017 Code of Federal Regulations.
- (c) NFPA publication 1403; "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures;" published April 30, 2007.
- (d) Section 129 of the Clean Air Act; contained in 42 USC 7429; "Solid waste combustion;" ~~as published January 2, 2006~~ January 6, 2017 in Supplement ~~V~~IV of the ~~2000-2012 Edition~~ edition of the United States Code.

3745-19-02 **Relations to other prohibitions.**

- (A) Notwithstanding any provision in this chapter, no open burning shall be conducted in an area where an air alert, warning, or emergency under Chapter 3745-25 of the Administrative Code is in effect.

- (B) No provisions of this chapter, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Revised Code, or any regulation of any state department, or any local ordinance or regulation dealing with open burning.

3745-19-03

Open burning in restricted areas.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(M)~~ (P) of rule 3745-19-01 of the Administrative Code titled "Referenced materials."]

- (A) No person or property owner shall cause or allow open burning in a restricted area except as provided in paragraphs (B) to (D) of this rule or in section 3704.11 of the Revised Code.
- (B) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:
- (1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.
 - (2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:
 - (a) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.
 - (b) They are not used for waste disposal purposes.
 - (c) They shall have a total fuel area of three feet or less in diameter and two feet or less in height.
 - (3) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D) (1)(d) of rule 3745-50-45 of the Administrative Code.
 - (4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.
 - (5) Fires set at the direction of federal, state, and local law enforcement officials for the purpose of destruction of cannabis sativa (marijuana) plant vegetation, processed marijuana material or other drugs seized by federal, state, or local law enforcement officials.

Fires allowed by paragraphs (B)(1), (B)(2) and (B)(4) of this rule shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(C) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with paragraph (B) of rule 3745-19-05 of the Administrative Code:

- (1) Prevention or control of disease or pests, with written or oral verification to the Ohio EPA from the Ohio department of health or local health department, the centers for disease control and prevention, cooperative extension service, Ohio department of agriculture, or United States department of agriculture, that open burning is the only appropriate disposal method.
- (2) Bonfires or campfires used for ceremonial purposes that do not meet the requirements of paragraph (B)(2) of this rule, provided the following conditions are met:
 - (a) They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours.
 - (b) They are not used for waste disposal purposes.
 - (c) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.
- (3) Disposal of agricultural waste generated on the premises if the following conditions are observed:
 - (a) The fire is set only when atmospheric conditions will readily dissipate contaminants.
 - (b) ~~The fire smoke~~ does not create a visibility hazard on ~~the~~ roadways, railroad tracks, or air fields.
 - (c) The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises.
 - (d) The wastes are stacked and dried to provide the best practicable condition for efficient burning.

- (e) No materials are burned which contain rubber, grease, asphalt, liquid petroleum products, plastics or building materials.

(4) Recognized horticultural, silvicultural (forestry), range management, prairie and grassland management, invasive species management, or wildlife management practices, if all of the following conditions are met:

- (a) The fire shall be performed within one hundred eighty days of submitting the notification.
- (b) The fire shall be performed when it is anticipated weather conditions will minimize the dispersion of smoke near populated areas and the smoke does not create a visibility hazard on roadways, railroad tracks, or air fields. Smoke dispersion conditions shall be evaluated before, during, and after the fire and actions taken to minimize smoke impacts.
- (c) The person making the notification shall notify the local fire department having jurisdiction over the burn area at least twenty-four hours before the fire is anticipated to occur.
- (d) The person making the notification shall provide reasonable notification to populations potentially impacted by the smoke before the fire occurs. Populations potentially impacted shall include, at a minimum, those within one-quarter mile of the burn site. Reasonable notification shall include one of the following:
 - (i) Posting notice of intent to burn, including contact information for the person making the notification and the anticipated date that the fire will occur, within open view from a public roadway adjacent to and outside of the property on which the fire will occur.
 - (ii) Posting a notice in a newspaper of general circulation in the local community in which the fire will occur. The notice shall include, at a minimum, the address of the property at which the fire will occur, contact information for the person making the notification and the anticipated date that the fire will occur.
 - (iii) Delivering written notice directly to residences and businesses within a minimum of one-quarter mile of the burn site. Notices shall include, at a minimum, the address of the property at which the fire will occur, contact information for the person making the notification and the anticipated date that the fire will occur.

(e) The person making the notification shall document information on the weather, smoke conditions, any air quality concerns before, during, and after the fire, the actual number of acres burned, the time the fire was initially kindled, the time when active kindling ceased and the time at which mop up activities ceased. The person making the notification shall maintain this information for a minimum of one year from the date of the fire and shall provide this information to the appropriate Ohio EPA district office or local air agency within ten days upon request.

(f) Reasonable access to the burn site shall be provided to Ohio EPA representatives at any time during the fire.

(D) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with paragraph (A) of rule 3745-19-05 of the Administrative Code, provided that any conditions specified in the permission are followed:

(1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in paragraph (B)(3) of this rule.

(2) Instruction in methods of fire fighting or for research in the control of fire as recognized by the state fire marshal division of the Ohio department of commerce and the guidelines set forth in the national fire protection association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures," provided that the application required in paragraph (A)(1) of rule 3745-19-05 of the Administrative Code is submitted by the commercial or public entity responsible for the instruction.

(3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the director and, if required, performed as identified in the appendix to this rule. If deemed necessary, the open burning may be authorized with prior oral approval by the director followed by the issuance of a written permission to open burn within seven working days of the oral approval.

~~(4) Recognized horticultural, silvicultural (forestry), range management, prairie and grassland management, invasive species management, or wildlife management practices.~~

~~(5)~~(4) Fires or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

Appendix

Open Burning of Storm Debris Conditions for “Extraordinary Circumstances” Approvals Issued to Communities Demonstrating a Severe Economic Hardship for the Disposal of Storm Debris Under rules 3745-19- 03(D)(3) or 3745-19-04(C)(3) of the Administrative Code

If a community is located in an area that was declared a state of emergency by the governor for a natural disaster, such as an ice storm, tornado or flood, and the community has demonstrated a severe economic hardship in accordance with the community hardship table below, that would prevent disposal techniques such as chipping or the use of an air curtain destructor, Ohio EPA under paragraph (D)(3) of rule 3745-19-03 or paragraph (C)(3) of rule 3745-19-04 of the Administrative Code, may allow for the open burning of trees and vegetative wastes provided the local community meets the following guidelines. The local community must request and receive an Ohio EPA open burning permit from the director and the community must follow the following guidelines for open burning of the vegetative material, trees and tree limbs.

1. The material burned must be limited to vegetative material, trees and tree limbs resulting from a natural disaster.
2. All material to be burned shall be dry and in a state to sustain good combustion.
3. No burning shall take place within:
 - a. one hundred feet of any uninhabited structure or powerline;
 - b. three hundred feet of a frequently traveled municipal or township road;
 - c. five hundred feet of any state highway;
 - d. one thousand feet of any interstate highway;
 - e. one-half mile from any school or day care;
 - f. one mile from any hospital, nursing home or any other type of health care facility;
 - g. one thousand feet from any inhabited building;
 - h. one thousand feet from any fuel storage facility with three or less tanks or above ground petroleum or natural gas pipeline; or
 - i. one-half mile from any fuel storage facility with three or more tanks.
4. All fires must be attended at all times during burning until completely extinguished.
5. Burning may not be conducted during unfavorable meteorological conditions such as:
 - a. high winds;
 - b. temperature inversions;
 - c. air stagnation; or

Appendix (cont)

- a. when a pollution alert or ozone action day has been declared.
6. If at any time a fire creates:
 - a. a threat to public health;
 - b. a nuisance; or
 - c. a fire hazard;the burning shall be extinguished.
7. All burning shall comply with other federal, state, and local laws, rules, and ordinances.
8. Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.
9. Burning shall be conducted during daylight hours only, and all fires shall be extinguished prior to sunset.
10. The pile to be burned shall be less than or equal to five thousand cubic yards and only one pile may be burned at a time.
11. The district office of Ohio EPA or the local air agency along with the local fire department and health department must be notified at least twenty-four hours in advance of the date and time of the burning.
12. The open burning permit shall be made available at the burning site to state and local officials upon request.
13. The open burning permit shall be valid for no longer than three months from the date of issuance.
14. Any change in the plan must receive an additional approval from the Ohio EPA district office or local air agency, unless the change is to reduce open burning.
15. The Director may add conditions to an approval letter, as necessary, to prevent a public nuisance or protect the public health or the environment. Such conditions may be based on local air quality conditions, including whether the area is a nonattainment county or has been redesignated from nonattainment to attainment status.

Ohio Environmental Protection Agency
Permit Requirements for Air Curtain Destructors Employed for Landscape Waste

The accumulation and open burning with air curtain destructors (ACDs) of storm debris shall be allowed by municipalities upon receipt of written permission from Ohio EPA or the appropriate local air agency, provided the following conditions are met:

1. The material to be burned shall be limited to vegetative material, trees and tree limbs.
2. The ACD shall be at least 0.5 mile from any hospital, day care, nursing home or any other type of health care facility.
3. The ACD shall be at least five hundred feet from any inhabited building not located on said premises.
4. All material to be burned shall be dry and in a state to sustain good combustion.

Appendix (cont)

1. Burning may not be conducted during unfavorable meteorological conditions such as high winds, temperature inversions, air stagnation, when a pollution alert or ozone action day has been declared. The open burning shall not create a nuisance. The emission of smoke, ashes, dust, dirt, odors or any other substance in such a matter or amount as to endanger the health, safety or welfare of the public or cause unreasonable injury or damage to property, is a public nuisance and is prohibited.
1. All material shall be burned in an open pit which shall be constructed as follows:
 - a. The pit shall be rectangular in shape with four vertical walls.
 - b. The maximum length shall be no longer than the blower manifold.
 - c. The maximum width shall be less than ten feet. A width of six to eight feet is recommended.
 - d. The nozzles are to be directed down into the pit at a twenty-five to thirty degree angle from the horizontal.
2. The ACD may be shut off during start-up for a maximum of twenty-five minutes. Otherwise, the ACD must remain in operation until the fire has been completely extinguished. Smoldering will not be allowed.
3. The burn pit is not to be loaded above two-thirds of its total depth.
4. The loading of the pit shall be done in such a way as to minimize the amount of soil entering the pit.
5. The community must have personnel present at all times when open burning is taking place.
6. The Ohio EPA or local air agency inspector shall be notified when open burning will take place and shall be allowed complete access to the site before, during and after the operation of the ACD.

Appendix (cont)

Community Hardship Table

Village/Township/City Size	Population	Controlled Burning Option	Open Burning Option*
Small Community	Population of less than 5,000	Open burning of storm debris allowed using air curtain destructor if the following conditions apply: (1) area was declared a state of emergency by the governor and (2) disposal of storm debris using other disposal methods exceeds \$5,000.	Open burning of storm debris if the following conditions apply: (1) area was declared a state of emergency by the governor and (2) disposal of storm debris using other disposal methods exceeds \$5,000
Medium Community	Population of greater than 5,000, but less than 25,000	Open burning of storm debris allowed using air curtain destructor if the following conditions apply: (1) area was declared a state of emergency by the governor and (2) disposal of storm debris using other disposal methods exceeds \$10,000.	Open burning of storm debris allowed if the following conditions apply: (1) area was declared a state of emergency by the governor and (2) disposal of storm debris using other disposal methods exceeds \$10,000.
Large Community	Population greater than 25,000	Open burning of storm debris allowed using air curtain destructor if the following conditions apply: (1) area was declared a state of emergency by the governor and (2) disposal of storm debris using other disposal methods exceeds \$20,000.	Open burning of storm debris allowed if the following conditions apply: (1) area was declared a state of emergency by the governor and (2) disposal of storm debris using other disposal methods exceeds \$20,000.

*Allowed only if specifically approved by the director in response to community's demonstration of severe economic hardship.

3745-19-04

Open burning in unrestricted areas.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(O)~~ (P) of rule 3745-19-01 of the Administrative Code titled "Referenced materials."]

- (A) No person or property owner shall cause or allow open burning in an unrestricted area except as provided in paragraphs (B) to (D) of this rule or in section 3704.11 of the Revised Code.
- (B) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA, except as required in paragraph (B)(3)(f) of this rule:
- (1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots, and similar occupational needs.
 - (2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:
 - (a) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.
 - (b) They are not used for waste disposal purposes.
 - (c) They shall have a total fuel area of three feet or less in diameter and two feet or less in height except when such fire is used for ceremonial purposes it may have a total fuel area no greater than five feet in diameter and five feet in height, if the ceremonial fire burns no longer than three hours.
 - (3) Disposal of residential waste or agricultural waste generated on the premises if the following conditions are observed:
 - (a) The fire is set only when atmospheric conditions will readily dissipate contaminants.
 - (b) ~~The fire~~ smoke does not create a visibility hazard on ~~the~~ roadways, railroad tracks, or air fields.
 - (c) The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises.

- (d) The wastes are stacked and dried to provide the best practicable condition for efficient burning.
 - (e) No materials are burned which contain rubber, grease, asphalt, liquid petroleum products, plastics or building materials.
 - (f) Prior notification to the Ohio EPA in accordance with paragraph (B) of rule 3745-19-05 of the Administrative Code shall be required for the disposal of agricultural waste if the size of waste pile exceeds twenty feet in diameter by ten feet in height (or four thousand cubic feet) and for residential waste if the size of the waste pile exceeds ten feet by ten feet by ten feet (or one thousand cubic feet).
- (4) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D) (1)(d) of rule 3745-50-45 of the Administrative Code.
- (5) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.
- (6) Fires set at the direction of federal, state, and local law enforcement officials for the purpose of destruction of cannabis sativa (marijuana) plant vegetation, processed marijuana material or other drugs seized by federal, state, or local law enforcement officials.

Fires allowed by paragraphs (B)(1), (B)(2) and (B)(5) of this rule shall not be used for waste disposal purposes, and shall be of the minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

- (C) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with paragraph (A) of rule 3745-19-05 of the Administrative Code, provided that any conditions specified in the permission are followed:
- (1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in paragraph (B)(4) of this rule.
 - (2) Instruction in methods of fire fighting or for research in the control of fire as recognized by the state fire marshal division of the Ohio department of commerce and the guidelines set forth in the national fire protection

association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures," provided that the application required in paragraph (A)(1) of rule 3745-19-05 of the Administrative Code is submitted by the commercial or public entity responsible for the instruction.

- (3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the director and, if required, performed as identified in the appendix to rule 3745-19-03 of the Administrative Code. If deemed necessary, the open burning may be authorized with prior oral approval by the director followed by the issuance of a written permission to open burn within seven working days of the oral approval.
- (4) Disposal of land clearing waste generated on the premises if the following conditions are observed:
 - (a) The fire is set only when atmospheric conditions will readily dissipate contaminants.
 - (b) ~~The fire~~ smoke does not create a visibility hazard on roadways, railroad tracks, or air fields.
 - (c) The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises.
 - (d) An air curtain destructor or other device or method determined by the director to be at least as effective is used to curtail release of air contaminants.
- ~~(5) Recognized horticultural, silvicultural (forestry), range management, prairie and grassland management, invasive species management, or wildlife management practices.~~
- ~~(6)~~(5) Fires or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.
- ~~(7)~~(6) Disposal of land clearing waste utilizing an air curtain burner if the following conditions are met:
 - (a) The owner or operator shall apply for a permit-to-install as required in Chapter 3745-31 of the Administrative Code and a title V permit as required in Chapter 3745-77 of the Administrative Code.

[Comment: Pursuant to Section 129 of the Clean Air Act and 40 CFR 60.2974 and 40 CFR 60.3069, air curtain burners are subject to and must fulfill the requirements of the Title V permitting program and must apply for and obtain a title V air permit.]

- (b) The siting of the air curtain burner shall be at a point on the premises no less than one thousand feet from any inhabited building not located on said premises.
 - (c) No materials may be charged to the burner less than thirty minutes after sunrise and shall be completed not less than sixty minutes prior to sunset. A log shall be maintained on site, and available upon request, that documents daily beginning and ending times of charging.
 - (d) The air curtain burner shall be attended at all times while burning is occurring and until flames are no longer visible.
 - (e) The air curtain shall be maintained until all material within the air curtain burner has been reduced to coals, and flames are no longer visible.
 - (f) At no time shall material be loaded into the air curtain burner such that the material extends into and above the air curtain, except for brief moments during loading.
 - (g) The air curtain burner shall be used only for the disposal of land clearing wastes as defined in paragraph (I) of rule 3745-19-01 of the Administrative Code.
- (D) Open burning shall be allowed for the following purposes, with prior notification to the Ohio EPA in accordance with paragraph (B) of rule 3745-19-05 of the Administrative Code:‡
- (1) for the purpose of prevention Prevention or control of disease or pests, with written or oral verification to the Ohio EPA from the Ohio department of health or local health department, the centers for disease control and prevention, cooperative extension service, Ohio department of agriculture, or United States department of agriculture, that open burning is the only appropriate disposal method.
 - (2) Recognized horticultural, silvicultural (forestry), range management, prairie and grassland management, invasive species management, or wildlife management practices, if all of the following conditions are met:
 - (a) The fire shall be performed within one hundred eighty days of notification.

- (b) The fire shall be performed when it is anticipated weather conditions will minimize the dispersion of smoke near populated areas and the smoke does not create a visibility hazard on roadways, railroad tracks, or air fields. Smoke dispersion conditions shall be evaluated before, during, and after the fire and actions taken to minimize smoke impacts.
- (c) The person making the notification shall notify the local fire department having jurisdiction over the burn area at least twenty-four hours before the fire is anticipated to occur.
- (d) The person making the notification shall provide reasonable notification to populations potentially impacted by the smoke before the burn occurs. Populations potentially impacted shall include, at a minimum, those within one-quarter mile of the fire site. Reasonable notification shall include one of the following:
- (i) Posting notice of intent to burn, including contact information for the person making the notification and the anticipated date that the fire will occur, within open view from a public roadway adjacent to and outside of the property on which the fire will occur.
 - (ii) Posting a notice in a newspaper of general circulation in the local community in which the fire will occur. The notice shall include, at a minimum, the address of the property at which the fire will occur, contact information for the person making the notification and the anticipated date that the fire will occur.
 - (iii) Delivering written notice directly to residences and businesses within a minimum of one-quarter mile of the burn site. Notices shall include, at a minimum, the address of the property at which the fire will occur, contact information for the person making the notification and the anticipated date that the fire will occur.
- (e) The person making the notification shall document information on the weather, smoke conditions, any air quality concerns before, during, and after the fire, the actual number of acres burned, the time the fire was initially kindled, the time when active kindling ceased, and the time at which mop up activities ceased. The person making the notification shall maintain this information for a minimum of one year from the date of the fire and shall provide this information to the appropriate Ohio EPA district office or local air agency within ten days upon request.

(f) Reasonable access to the burn site shall be provided to Ohio EPA representatives at any time during the fire.

3745-19-05

Permission to individuals and notification to the Ohio EPA.

(A) Permission:

- (1) An application for permission to open burn shall be submitted in writing to Ohio EPA. The applicant shall allow Ohio EPA at least ten working days to review the permit. Applicant may proceed with burn upon receipt of written permission from Ohio EPA. Saturday, Sunday, and legal holidays shall not be considered working days. The application shall be in such form and contain such information as required by the Ohio EPA.
- (2) Except as provided in paragraphs (A)(6) and (A)(7) of this rule, such applications shall contain, at a minimum, the following information~~regarding:~~
 - (a) The purpose of the proposed burning~~;~~
 - (b) The quantity or acreage and the nature of the materials to be burned~~;~~
 - (c) The date or dates when such burning will take place~~;~~
 - (d) The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks~~; and~~
 - (e) The methods or actions which will be taken to reduce the emissions of air contaminants.
- (3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place, and manner as to minimize the emission of air contaminants, when atmospheric conditions are appropriate; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of this chapter.
- (4) Except as provided in paragraph (A)(6) of this rule, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.
- (5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.

- (6) The Ohio department of commerce, division of state fire marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio fire academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application required pursuant to paragraph (A)(1) of this rule shall contain information as required in paragraph (A)(2) of this rule, except the information required in paragraphs (A)(2)(c) and (A)(2)(d) of this rule need not be provided unless it is available at the time of submittal of the application. The academy shall contact the appropriate Ohio EPA district office or local air agency at least five working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday, and legal holidays shall not be considered working days.
- (7) For open burning defined under paragraph (D)(2) of rule 3745-19-03 and paragraph (C)(2) of rule 3745-19-04 of the Administrative Code, permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish received by the appropriate Ohio EPA field office in accordance with rule 3745-20-03 of the Administrative Code.

(B) Notification:

- (1) Notification shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered working days. It shall be in such form and contain such information as shall be required by the Ohio EPA.
- (2) Such notification shall inform the Ohio EPA regarding the following:
- (a) The purpose of the proposed burning~~;~~
 - (b) The nature and quantities of materials to be burned~~;~~
 - (c) The date or dates when such burning will take place~~;~~ ~~and~~
 - (d) The location of the burning site.
- (3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under this chapter and the Ohio EPA shall notify the applicant to this effect.

3745-19-06 **Open burning unilateral order.**

- (A) The director may assess and collect administrative penalties from any person who violates any of the rules in this chapter. Through unilateral orders, the director may assess a violator not more than two hundred fifty dollars per day for each separate violation of the rules in this chapter for open burning of residential waste and not more than one thousand dollars per day for each separate violation of the rules in this chapter for open burning of all wastes that are not residential waste. A separate violation is assessed for each day (twenty-four hour period) or portion of a day the violation occurs.

- (B) The director's authority under paragraph (A) of this rule is in addition to, and not in limitation of, the director's authority under section 3704.06 of the Revised Code to request the attorney general to initiate legal action to seek penalties of not more than twenty-five thousand dollars for each day of each violation for the violation of rules in this chapter.