

## **Chapter 3745-19 Open Burning Standards**

### **3745-19-01 Definitions.**

As used in Chapter 3745-19 of the Administrative Code:

(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; 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) “Economic poisons” include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.

(C) “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.

(D) “Garbage” means any waste material resulting from the handling, processing, preparation, cooking, and consumption of food or food products.

(E) “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.

(F) “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.

(G) “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.

(H) “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.

(I) “Residential waste” means any waste material, including landscape wastes, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.

(J) “Restricted area” means the following:

(1) Except as provided in paragraph (I)(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.

(K) “Unrestricted area” means all areas outside the boundaries of a restricted area as defined in paragraph (I) of this rule.

(L) Incorporation by reference. This chapter includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this chapter. The materials are hereby made a part of the regulations in this chapter. For materials subject to change, only the specific version specified in the regulation is incorporated. Material is incorporated 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 incorporated unless and until this rule has been amended to specify the new dates.

(1) Availability. The materials incorporated by reference are available as follows:

(a) National Fire Protection Association. Information on the National Protection Association codes may be obtained by contacting association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered [www.nfpa.org/catalog/home/index.asp](http://www.nfpa.org/catalog/home/index.asp). Copies of the code at most public libraries and “The State Library of Ohio.”

(2) Incorporated materials.

(a) NFPA publication 1403; “Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures”; November 2001 Edition.

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### **3745-19-02 Relations to Other Prohibitions.**

(A) Notwithstanding any provision in Chapter 3745-19 of the Administrative Code, 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 Chapter 3745-19 of the Administrative Code, 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.

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### **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 the last paragraph of rule [3745-19-01](#) of the Administrative Code titled "Incorporation by reference."]

(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; and

(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.

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 verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio department of agriculture, or U.S. 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 be used for waste disposal purposes; and

(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 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; and

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

(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 fires 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](#) 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 performed as identified in the appendix of 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, range, or wildlife management practices; and

(5) Fires and/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
  - d. 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.
5. 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.

6. 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.

7. 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.

8. The burn pit is not to be loaded above two-thirds of its total depth.

9. The loading of the pit shall be done in such a way as to minimize the amount of soil entering the pit.

10. The community must have personnel present at all times when open burning is taking place.

11. 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.

#### 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.

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## **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 the last paragraph of rule [3745-19-01](#) of the Administrative Code titled "Incorporation by reference."]

(A) No person or property owner shall cause or allow open burning in an unrestricted area except as provided in paragraphs (B) to (C) 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; and

(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 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; and

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

(4) Ceremonial purposes, if the following conditions are met:

(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. Fires allowed by paragraphs (B)(1), (B)(2), (B)(3) 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](#) 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 Ohio EPA director and performed as identified in the appendix of 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 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; and

(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, range, or wildlife management practices; and

(6) Fires and/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.

(D) Open burning shall be allowed for the prevention or control of disease or pests with written or verbal verification to the Ohio EPA from the local health department, cooperative extension

service, Ohio department of agriculture, or U.S. department of agriculture, that open burning is the only appropriate disposal method.

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## **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 at least ten working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered a working day. It shall be in such form and contain such information as required by the Ohio EPA.

(2) Except as provided in paragraph (A)(6) and (A)(7) of this rule, such applications shall contain, as a minimum, information regarding:

(a) The purpose of the proposed burning;

(b) The nature of quantities of material 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; 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 Chapter 3745-19 of the Administrative Code.

(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 a working day.

(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 a working day. 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:

(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 Chapter 3745-19 of the Administrative Code and the Ohio EPA shall notify the applicant to this effect.

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