

RULE SYNOPSIS

Draft rule language for Ohio Administrative Code (OAC) Chapter 3745-19, "Open Burning Standards" Five- year review

The Ohio EPA Division of Air Pollution Control (DAPC) has completed draft rule language for the incorporation of minor revisions in Ohio Administrative Code (OAC) Chapter 3745-19, "Ohio's Open Burning Standards", as required by Ohio Revised Code (ORC) Section 119.032 (Five-year review). DAPC has determined that all the rules in this chapter are still necessary and require amendments as follows.

DAPC is not recommending any changes to the scope or intent of the rules and most of the draft amendments are minor in nature, primarily for clarification, formatting and typographical corrections. One new purpose for open burning was added to OAC rules 3745-19-03 and 3745-19-04. This addition to each rule will facilitate the disposal of confiscated marijuana by law enforcement officials. In the past, this activity could be performed via written permission under the emergency or extraordinary provisions of these two rules. As this activity is infrequent and performed only by law enforcement officials, Ohio EPA has determined that this activity would not require notification or written permission from Ohio EPA in order to expedite that open burning activity.

Summary of revisions for Chapter 3745-19, 5-year review:

1. OAC rule 3745-19-01 (Definitions); Clarification was added in paragraph (A), "agricultural waste" to indicate that dismantled or fallen buildings/barns cannot be open burned. New definition in paragraph (E) for "inhabited building", for clarification as referenced in the open burning activity for agricultural waste and residential waste. Clarification was added to the current definition (now paragraph (J)) of "residential waste" by adding "rubber, grease, asphalt, liquid petroleum products, or plastics" as those wastes that could not be open burned as residential waste besides garbage. Amendments to paragraph (M), language updates for "incorporation by reference" changed to just "referenced materials".
2. OAC rule 3745-19-02 (Relations to other prohibitions); a minor typographical reference change was made in both paragraphs of this rule.
3. OAC rule 3745-19-03 (Open burning in restricted areas); Amendments were made to the first paragraph of the rule, "incorporation by reference" was changed to "referenced materials". New paragraph (B)(5) was added to allow the open burning of confiscated marijuana by law enforcement officials. Paragraph 19-03(C)(3)(e) was revised by adding "plastics" and "building materials" as additional materials that cannot be open burned. Clarification was added to paragraph (D)(3), which indicates the requirements described in the appendix to this rule are only necessary ("if required") for a storm debris/community hardship situation. Clarification was made by adding to the sentence in paragraph (D)(4); "forestry" (management).

4. OAC rule 3745-19-04 (Open burning in unrestricted areas); Amendments to the first paragraph of rule, language update for “incorporation by reference” changed to just “referenced materials”. Correction in paragraph (B)(5), strike-out of reference to paragraph (B)(3). Paragraph (B)(3)(e) was revised by adding “plastics” and “building materials” as additional materials that cannot be open burned. New language in (B)(6) was added to allow the open burning of confiscated marijuana by law enforcement officials. Clarification added to paragraph (C)(3), which indicates the requirements described in the appendix of rule 3745-19-03 are only necessary (“if required”) for a storm debris/community hardship situation. Clarification was made by adding to the sentence in paragraph (C)(5); “forestry” (management). Paragraph (D) was reformatted for activities that require notification

5. OAC rule 3745-19-05 (Permission to individuals and notification to the Ohio EPA); Clarification language was added in paragraph (A)(1), “Approval for permission to open burn may be granted before that time period”. Paragraph (A)(2)(b) was revised to read; “the quantity or acreage and the nature of the materials to be burned.” In paragraph (A)(3), the phrase “when atmospheric conditions are appropriate” was added for further clarification.

6. OAC rule 3745-19-06 (Open burning unilateral order); Clarification language was added in paragraph (A), to differentiate the fines that may be imposed if the waste burned is residential or not residential. As a result the sentence beginning with “Commercial property” is no longer needed and was deleted.