

660.08 OPEN BURNING.

(a) (1) Definitions. As used in this section:

A. "Agricultural waste." 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." 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 O.A.C. Chapter 3745-31 and a permit-to-operate has been obtained as required in O.A.C. Chapter 3745-77.

C. "Air curtain destructor." 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. "Economic poisons." Include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.

E. "Emergency burning." 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. "Garbage." Any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.

G. "Inhabited building." 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. "Land clearing waste." 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.

I. "Landscape waste." Any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residues.

J. "Ohio EPA." The Ohio Environmental Protection Agency Director or agencies delegated authority by the Director of the Ohio Environmental Protection Agency pursuant to R.C. § 3704.03 or the Chief of any Ohio Environmental Protection Agency District Office.

K. "Open burning." 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 O.A.C. 3745-17-09 or O.A.C. 3745-17-10.

L. "Residential waste." 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. "Restricted area." The area within the boundary of the municipality, plus a zone extending 1,000 feet beyond the boundaries of a municipality having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any municipality having a population of 10,000 persons or more according to the latest federal census.

N. "Unrestricted area." All areas outside the boundaries of a restricted area as defined in this section.

(2) Referenced materials. This section includes references to certain matter or materials. The text of the referenced materials is not included in the legislation contained in this section. 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 legislation. For materials subject to change, only the specific versions specified in this legislation are referenced. Material is referenced as it exists on the effective date of this legislation. 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 section has been amended to specify the new dates.

A. Availability. The referenced materials are available as follows:

1. 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.

2. Code of Federal Regulations (C.F.R.). 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 C.F.R. is also available in electronic format at <http://www.ecfr.gov>. The C.F.R. compilations are also available for inspection and use at most public libraries and the State Library of Ohio.

3. National Fire Protection Association. Information on the National Fire 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 at 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.

B. Referenced materials.

1. 40 C.F.R. § 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 Code of Federal Regulations.

2. 40 C.F.R. § 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 Code of Federal Regulations.

3. NFPA publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures" published April 30, 2007.

4. Section 129 of the Clean Air Act, contained in 42 U.S.C. § 7429: "Solid waste combustion" published January 2, 2006 in Supplement V of the 2000 Edition of the United States Code.

(OAC 3745-19-01)

(b) Relation to Other Laws.

(1) Notwithstanding any provision in OAC Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under OAC Chapter 3745-25 is in effect.

(2) No provisions of OAC Chapter 3745-19 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 Ohio Revised Code, or any regulation of any state department, or any local ordinance or regulation dealing with open burning.

(OAC 3745-19-02)

(c) Open Burning in Restricted Areas.

(1) No person or property owner shall cause or allow open burning in a restricted area except as provided in divisions (b) to (d) of this section or in Ohio R.C. 3704.11.

(2) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:

A. Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.

B. 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:

1. 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;

2. They are not used for waste disposal purposes; and

3. They shall have a total fuel area of three feet or less in diameter and two feet or less in height.

C. 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 O.A.C. 3745-50-45(D)(1)(d).

D. Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

E. 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 and/or other drugs seized by federal, state, or local law enforcement officials.

F. Fires allowed by divisions (c)(2)A., (c)(2)B., and (c)(2)D. of this section 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.

(3) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with division (d)(2) of this section:

A. Prevention or control of disease or pests, with written or verbal 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 U.S. Department of Agriculture, that open burning is the only appropriate disposal method.

B. Bonfires or campfires used for ceremonial purposes that do not meet the requirements of division (c)(2)B. of this section, provided the following conditions are met:

1. 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;

2. They are not used for waste disposal purposes; and

3. 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.

C. Disposal of agricultural waste generated on the premises if the following conditions are observed:

1. The fire is set only when atmospheric conditions will readily dissipate contaminants;

2. The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;

3. The fire is located at a point on the premises no less than 1,000 feet from any inhabited building not located on said premises;

4. The wastes are stacked and dried to provide the best practicable condition for efficient burning; and

5. No materials are burned which contain rubber, grease, asphalt, liquid petroleum products, plastics or building materials.

(4) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with division (d)(1) of this section, provided that any conditions specified in the permission are followed:

A. 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 division (c)(2)C. of this section;

B. 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 division (d)(1)A. of this section is submitted by the commercial or public entity responsible for the instruction;

C. In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and performed as identified in the appendix to O.A.C. 3745-19-03. 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;

D. Recognized horticultural, silvicultural (forestry), range, or wildlife management practices; and

E. 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) Permission to Individuals and Notification to the Ohio EPA.

(1) Permission.

A. 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.

B. Except as provided in divisions (d)(1)F. and (d)(1)G. of this section, such applications shall contain, as a minimum, information regarding:

1. The purpose of the proposed burning;
2. The quantity or acreage and the nature of the materials to be burned;
3. The date or dates when such burning will take place;
4. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and
5. The methods or actions which will be taken to reduce the emissions of air contaminants.

C. 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 O.A.C. Chapter 3745-19.

D. Except as provided in division (d)(1)F. of this section, 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.

E. 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.

F. 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 division (d)(1)A. of this section shall contain information as required in division (d)(1)B. of this section, except the information required in divisions (d)(1)B.3. and (d)(1)B.4. of this section 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.

G. For open burning defined under division (c)(4)B. of this section and O.A.C. 3745-19-04(C) (2), 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 O.A.C. 3745-20-03.

(2) Notification.

A. 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.

B. Such notification shall inform the Ohio EPA regarding:

1. The purpose of the proposed burning;
2. The nature and quantities of materials to be burned;
3. The date or dates when such burning will take place; and
4. The location of the burning site.

C. The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under O.A.C. Chapter 3745-19 and the Ohio EPA shall notify the applicant to this effect.

(OAC 3745-19-05)

(e) Penalty. Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition, the offender shall be required to pay the cost of proper disposal of the materials burned. The cost of proper disposal of the materials burned shall be the amount it would have cost to dispose of the materials in a manner that is consistent with the air, water and solid waste laws, ordinances and regulations of the Municipality and the State.