

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 revisions in Ohio Administrative Code (OAC) Chapter 3745-19, “Open Burning Standards”, as required by Ohio Revised Code (ORC) Sections 106.03 and 106.031 (Five-year review). DAPC has determined that all the rules in this chapter are still necessary and some require amendments.

Changes Made to Draft Rules as a Result of Comments

On May 31, 2017, a draft of these rules was made available for a 30+-day public comment period. Ohio EPA received several comments and made several changes as a result. The changes are as follows:

OAC Rules 3745-19-03 and 3745-19-04

1. Modifications were made to paragraphs (C)(4)(d) of OAC rule 3745-19-03 and (D)(2)(d) of OAC rule 3745-19-04 to add methods of providing reasonable notification.
2. Modifications were made to paragraphs (C)(4)(e) of OAC rule 3745-19-03 and (D)(2)(e) of OAC rule 3745-19-04 regarding the reporting of data from the fire. DAPC removed the requirement to automatically provide a report of the fire and, instead, will only require the person making notification to maintain the information for one year and provide the information within ten days when requested by Ohio EPA.
3. Language was added at the end of paragraphs (C)(4)(e) of OAC rule 3745-19-03 and (D)(2)(e) of OAC rule 3745-19-04 to replace the use of “start time” and “stop time” with the terms “time the fire was initially kindled”, “time when active kindling ceased”, and “time at which mop up activities ceased” which more accurately reflect the stages of the burning process

The amended and no-change rules will be proposed to the Joint Committee on Agency Rule Review (JCARR) prior to adoption of the changes discussed in this document. The comments discussed above supersede any draft changes discussed in the next section.

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

The following is a list of the original draft changes presented for public comment. The changes remain in the rule language and will be adopted unless modified. Modifications to the draft rules are discussed in the preceding section of this document.

OAC rule 3745-19-01 (Definitions):

1. Paragraph (D): A new definition for “building materials” was added. This term is used in both rules 3745-19-03 and 3745-19-04 as an example of materials that may not be burned as agriculture waste. The definition clarifies the items that Ohio EPA considers to be building materials for the purpose of these rules.
2. Paragraph (P): Information on the version and availability of items referenced in this chapter were updated. No new information on the availability of referenced items in the United States Code was added.

OAC rule 3745-19-03 (Open burning in restricted areas):

1. Paragraph (C)(3)(b): The sentence is being changed to clarify that the smoke from the fire cannot cause visibility hazards.
2. Paragraphs (C)(4) and (D)(4): Ohio EPA is changing language in the rule regarding fires for recognized horticultural, silvicultural (forestry), range management, prairie and grassland management, invasive species management, or wildlife management practices. These fires will no longer require a written permission from Ohio EPA, but rather a written notification, as long as the conditions in the rule are met. The conditions are intended to match the standard general conditions attached to written permissions issued by Ohio EPA for such fires under paragraph (A)(3) of OAC rule 3745-19-05.

OAC rule 3745-19-04 (Open burning in unrestricted areas):

1. Paragraph (B)(3)(b): The sentence is being changed to clarify that the smoke from the fire cannot cause visibility hazards.
2. Paragraphs (C)(5) and (D)(2): Ohio EPA is changing language in the rule regarding fires for recognized horticultural, silvicultural (forestry), range management, prairie and grassland management, invasive species management, or wildlife management practices. These fires will no longer require a written permission from Ohio EPA, but rather a written notification, as long as the conditions in the rule are met. The conditions are intended to match the standard general conditions attached to written permissions issued by Ohio EPA for such fires under paragraph (A)(3) of OAC rule 3745-19-05.

OAC rule 3745-19-05 (Permission to individuals and notification to the Ohio EPA):

Various minor changes are being made for clarification and to match agency and LSC formatting conventions.

Ohio EPA also performed a review of OAC rules 3745-19-02 and 3745-19-06 and found that the two rules remain necessary, but are without need of changes.