

## **RULE SYNOPSIS**

Draft rule language for Ohio Administrative Code (OAC) Rules 3745-19-03  
and 3745-19-04  
Prairie Management Burning Amendment

The Ohio EPA Division of Air Pollution Control (DAPC) has completed draft rule language for incorporation of language to clarify the language in paragraph (D)(4) of OAC rule 3745-19-03 and paragraph (C)(5) of OAC rule 3745-19-04. The amended language is intended to clarify that open burning for the purpose of prairie management is allowable under these rules.

In December, 2013, the Environmental Review Appeals Commission (ERAC) issued a decision on an appeal of a permit issued by the Portsmouth Local Air Agency. The permit granted permission to the Ohio Department of Natural Resources (ODNR) to use open burning as a prairie management tool at Chaparral Prairie State Nature Preserve. Permission was granted under paragraph (C)(5) of OAC rule 3745-19-04 for the purposes of "...horticultural, silvicultural (forestry), range, or wildlife management practices."

Ohio's open burning regulations have been in existence since the 1970's and it has always been Ohio EPA's interpretation that prairie burning was a recognized horticultural, silvicultural, and land and animal management tool falling under the authority of paragraph (D)(4) of OAC rule 3745-19-03 and paragraph (C)(5) of OAC rule 3745-19-04. However, as identified by the ERAC in their decision, the wording of the rule can be interpreted to exclude the specific use of open burning for prairie management because prairie management, namely the use of open burning to control grassland, shrubs and invasive species, does not meet the textbook definitions of either horticulture or silviculture.

To clarify Ohio EPA's position on this recognized management tool, Ohio EPA is adding the underlined language to both OAC 3745-19-03(D)(4) and OAC 3745-19-04(C)(5):

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

Also, Ohio EPA is making a few minor changes to the rules to address legislative service commission and agency formatting and style guidelines.