

Air Pollution Control Division

OhioEPA

APC Contractual Representative
Serving All of Stark County

Canton City Health Department

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Robert E. Pattison, MPA
Health Commissioner

Daniel J. Aleman
APCD Administrator

CERTIFIED MAIL

March 1, 2007

Mr. Mark Burns
Mark's Trucking and Excavating
1830 Steiner St NW
Canton, OH

Re: Open Burning, 1798 Diamond St., NE

Dear Mr. Burns:

The Canton City Health Department, Air Pollution Control Division is authorized to represent the Ohio EPA in Stark County in matters concerning air pollution.

On February 28, 2007, I was on the above site to investigate an open burning report. An illegal open burning of landscape waste was in progress. You agreed to extinguish the fire by burying it with your excavator. This office appreciates your cooperation in restoring the situation to EPA compliance.

In order to guide you in future operations, I give you a copy of the Ohio EPA regulations regarding open burning. By way of explanation, Ohio Administrative Code 3745 covers Ohio EPA regulations. OAC 3745-19 is the subset that covers open burning.

There are five parts to OAC 3745-19:

- 3745-19-01 Definitions
- 3745-19-02 Relations to other prohibitions
- 3745-19-03 Open burning in restricted areas
- 3745-19-04 Open burning in unrestricted areas
- 3745-19-05 Permission to individuals and notification to the Ohio EPA
- 3745-19-06 Open burning unilateral order

An important first consideration is to determine the regulatory definition, in -01, that applies to each situation. In this case, landscape waste was being generated at the property. Ohio EPA makes no provision for open burning of landscape waste, even in unrestricted areas.

7005 1160 0000 8900 1105

2.40

1.85

MARK BURNS
MARK'S TRUCKING & EXCAVATING
PO BOX 2243
CANTON, OH 44720-2243

SENDER: COMPLETE THIS SECTION

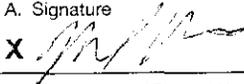
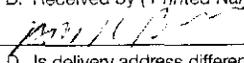
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MARK BURNS
MARK'S TRUCKING & EXCAVATING
PO BOX 2243
CANTON, OH 44720-2243

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
  Addressee
- B. Received by (Printed Name) Agent
 Addressee
- C. Date of Delivery **3-6-07**
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7005 1160 0000 8900 1105

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.

(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 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.

Effective: 07/07/2006 R.C. 119.032 review dates: 01/20/2006 and 07/07/2011 CERTIFIED ELECTRONICALLY Certification 06/27/2006 Date Promulgated Under: 119.03

(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.

(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 are 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 Fire Protection Association codes may be obtained by contacting association at Batterymarch Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered 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.

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.

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.

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Accepted Material
 grass shrubs
 leaves stumps
 branches

NOT Accepted
 treated wood
 wooden furniture
 railroad ties
 business waste

YARD WASTE COLLECTION SITES

<p>Beach City <i>Behind Police Dept</i> Church Street Dawn to Dusk Map</p>	<p>Lake Township <i>Township Garage</i> 1499 Midway St Hartville Dawn to Dusk Map</p>	<p>Perry Township <i>Recycling Station</i> 5075 Southway St. SW Mon 10am-6pm, Fri 9-5pm Tues-Thurs, Sat 8am-2pm Map</p>
<p>Brewster <i>Street Dept.</i> 145 1/2 W. First Street Dawn to Dusk Map</p>	<p>Lawrence Township <i>County Outpost</i> 12649 Orville St. SW Mon-Fri, 7am - 3pm Map</p>	<p>Plain Township <i>Fire Department</i> 2855 Easton St. NE M, Th & Sat 8am - 6pm (Will Reopen March 19, 2007) Map</p>
<p>Canal Fulton <i>Street Department</i> 950 Water Street Dawn to Dusk Map</p>	<p>Navarre <i>Wastewater Plant</i> Hudson Drive Mon-Fri, 7am - 3pm Map</p>	<p>Warsler Brothers 4125 Salway Ave NW Tues-Fri, 8am - 5pm Sat 8am - 3pm (Will Reopen March 15, 2007) Map</p>
<p>Canton Township <i>Township Building</i> 4711 Central Ave SE Dawn to Dusk Map</p>	<p>Nimishillen Twp <i>Township Garage</i> 4915 N. Nickelplate St. Dawn to Dusk Map</p>	<p>Tuscarawas Twp <i>Township Hall</i> 950 Main Street Rd SW Mon-Fri, 8am-5pm Map</p>
<p>Jackson Township <i>West of High School</i> Fulton Drive Dawn to Dusk Map</p>	<p>Paris Township <i>Township Office</i> 14220 Freed St. SE Dawn to Dusk Map</p>	<p>Wilmet <i>Behind Post Office</i> Rt. 62 & Rt. 250 Dawn to Dusk Map</p>

Accepted Material
 grass
 leaves
 stumps
 branches
 shrubs
 wood chips

NOT Accepted
 treated lumber
 plastic bags
 household trash
 business waste

YARD WASTE COLLECTION SITES

<p>Dennison <i>City Garage</i> 20 Welch St.</p>	<p>Gnadenhutzen <i>Village Garage</i> West Main Street</p>	<p>Strasburg <i>City Garage</i> Railroad Ave</p>
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