



Environmental
Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Ottawa County
Open Burning Complaint
Notice of Violation

October 12, 2011

CERTIFIED MAIL

The Honorable Sam Rose, President of Village Council
& Mayor Pro Tem of the Village of Rocky Ridge
P. O. Box 218
14571 West Second Street
Rocky Ridge, Ohio 43458

Dear Mayor Rose:

This office received a complaint on October 1, 2011, concerning open burning being conducted on property owned by the Village of Rocky Ridge (Village). My investigation, conducted on October 5, 2011, shows that a burn pile has been allowed and overseen by the Village of Rocky Ridge Fire Department (RRFD) on Village property. While on site I observed a burn site that was approximately 10' x 20' x 4' and contained evidence of the following materials having been burned for disposal purposes within 1000' of adjacent residences in a restricted area: brush, a mattress and box spring set, construction and demolition debris, vinyl siding, household trash with plastics, glass bottles, steel cans, aluminum cans and plastic bottles.

Based on my discussions with various Village personnel, it is apparent that the Village has site security issues that should be addressed to reduce or eliminate the illegal dumping of materials on Village property. Also, while it has been expressed that the Village has made an attempt to stop the dumping practices, there was no observed signage in the area of concern.

Based on these findings, there is sufficient evidence to determine that illegal open burning did occur and the complaint is justified. This is a violation of OAC rule 3745-19-03(A). A copy of the OAC rules pertaining to open burning has been enclosed for review by the Village.

To be clear, disposal of any such materials by burning would again be a violation of the above referenced rules. In addition to increased site security and the posting of signs, this office would suggest the removal of existing debris pile from the property as to reduce or eliminate the possibility of misinterpreting past violations as new violations.

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Furthermore, neither the Village Mayor, Village Council members nor the Village Fire Chief has the authority to grant permission to open burn or to conduct open burning unless the Village creates local ordinances which are more stringent than Ohio EPA's regulations. Without such ordinances, by granting permission to Village residents or employees, be they paid or volunteer, any such parties may be considered to have usurped the authority provided to the agency in Ohio Administrative Code (OAC) 3745-19-05, which is a violation of Ohio Revised Code 3704.05. Such cases will result in Ohio EPA citing applicable parties for causing or allowing open burning and may result in elevated enforcement action which may include, but is not limited to, monetary fines. It is the responsibility of the Village administration to disseminate this information to its staff and duly appointed representatives. Finally, be aware that future violations of Ohio's open burning rules may result in this office recommending elevated enforcement, which would include, but is not limited to, a fine, as described in OAC rule 3745-19-06(A).

Please provide a written response acknowledging your receipt of this letter and your understanding of the rules. If you do not understand the rules please contact this office for additional explanation before responding. Your response is requested no later than November 7, 2011.

Please be advised that the submission of information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek civil penalties pursuant to Ohio Revised Code Section 3704.06. The Ohio EPA will make a decision whether to pursue such penalties regarding this matter at a later date.

If you have any questions concerning this letter or the regulations, please feel free to call me at (419) 373-3137 or e-mail at thomas.cikotte@epa.state.oh.us.

Sincerely,


Thomas C. Cikotte
Division of Air Pollution Control

/llr

Enclosure

pc: Ottawa County Health Department
Thomas C. Cikotte, DAPC – NWDO
Certified Mail Receipt Number 7009 1410 0001 1834 1682
ec: William MacDowell, U.S. EPA Region V
Tom Kalman, DAPC - CO
Tom Sattler, DAPC - NWDO
Thomas C. Cikotte, DAPC – NWDO