



**Environmental
Protection Agency**

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

Re: Ottawa County
Open Burning Complaint
**Notice of Violation (NOV) &
Return to Compliance (RTC)**

August 31, 2012

CERTIFIED MAIL

Mr. Michael C. Moffitt
Property Owner
4921 North State Route 590
Oak Harbor, Ohio 43449

Dear Mr. Moffitt:

This office received a complaint on August 23, 2012, concerning open burning being conducted on your property at 14680 West Second Street in Rocky Ridge, Ohio. My investigation, conducted on August 27, 2012, shows two illegal burn sites exist on the property. The first is approximately 10' in diameter and contained evidence of miscellaneous metal parts, landscape wastes, a metal picnic bench with wood and plastic parts, and what is believed to be the remains of an upholstered sofa sleeper having been burned for disposal purposes. The second site is located in the driveway, is approximately four feet in diameter and contained evidence of landscape wastes and miscellaneous metal parts believed to be from upholstered furniture having been burned for disposal. Both locations are located in a restricted area.

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 both Ohio Administrative Code (OAC) rule 3745-19-03(A) and Ohio Revised Code (ORC) 3704.05. A copy of the OAC rules pertaining to open burning has been enclosed for your review because you, as the property owner, may be held liable for current and future violations. It is your responsibility to clearly communicate the open burning rules to your tenants and it is ultimately your responsibility to ensure that future violations do not occur on your property.

This is the second time that violations of Ohio's open burning rules have been discovered on your property. In the notice of violation previously sent to you, dated October 12, 2011, it was explained that the burning of residential wastes was not permitted on this property. On November 1, 2011, Ohio EPA received your written response indicating your understanding of the open burning rules and your commitment that no further illegal open burning would occur on the property.

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A copy of the OAC rules pertaining to open burning has been enclosed for your review. 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 September 14, 2012.

Because the fire has been extinguished, you are no longer in violation and the property is considered to have returned to compliance.

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. The decision on whether to pursue or decline to pursue such penalties regarding this matter is dependent on several factors, one of which is your future compliance with applicable Ohio EPA requirements.

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 5376

ec: William MacDowell, U.S. EPA Region V
Bruce Weinberg, DAPC - CO
Tom Sattler, DAPC - NWDO
Thomas C. Cikotte, DAPC - NWDO