

Air Pollution Control Division

Ohio Environmental
Protection Agency
APC Contractual Representative
Serving All of Stark County

Canton City Health Department

420 Market Avenue North • Canton, Ohio • 44702-1544
(330) 489-3385 • Fax: (330) 489-3335

Terri A. Dzienis
APCD Interim Administrator

James M. Adams, RS, MPH
Health Commissioner

COPY

9/22/2011

Jennifer Guy
1734 Harrisburg Rd NE
Canton, OH 44705

Re: INFORMATIONAL LETTER REGARDING OPEN BURNING

Dear Jennifer Guy:

On 7/5/2011, the Canton City Health Department, Air Pollution Control Division received a notice from the Canton City Fire Department of an illegal waste disposal fire at 1734 Harrisburg Rd NE Canton, Ohio. This is the second notice that we have received from the Canton City Fire Department regarding this property. The first report was dated 6/30/2011 and it also indicated an illegal waste disposal fire.

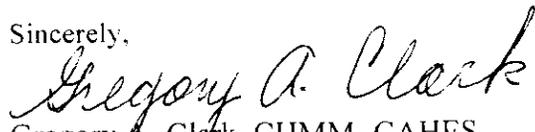
The Stark County Auditor lists the owner of the above mentioned property as Nicholas and Angel DeFrank.

Please be advised that there are State regulations regarding open burning. These regulations are in the Ohio Administrative Code (OAC) at OAC 3745-19. A copy of these regulations is enclosed with this letter. These regulations differ from the City of Canton's Ordinance cited in the first paragraph of this letter.

The specific sections of OAC 3745-19 relating to the fires at 1734 Harrisburg Rd NE are OAC 3745-19-01 "Definitions" and OAC 3745-19-03 "Open burning in restricted area". Two of the most important requirements of OAC 3745-19-03 are that it is illegal to open burn for waste disposal purposes, and paraphrasing the regulation, clean dry firewood is an acceptable fuel for the fires allowed under this rule. The owner of a property at which illegal open burning has occurred can be subject to administrative penalties of up to \$250 per day as described in OAC 3745-19-06. ***Please review these regulations and follow their requirements before any additional open burning takes place on this property.***

By copy to the tax mailing address on record for Nicholas and Angel DeFrank, the property owners of record, all parties please be aware that the property owners can be held liable for the actions of the tenants.

Sincerely,



Gregory A. Clark, CHMM, CAHES
Air Pollution Control Engineer

Enclosures: OAC Rule 3745-19

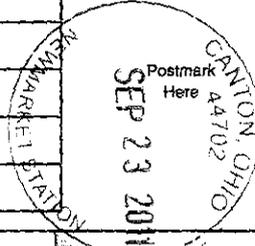
cc: Canton Fire Department, 110 7th Street SW, Canton, OH 44702
Nicholas and Angel DeFrank c/o CSE FCU, 1380 Market Ave N, Canton, OH 44714
Correspondence
Complaints File, Open Burning, McKinley Township
GA Clark

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

4844 0862 2980 0002 2980 0907 0702

For delivery information visit our website at www.usps.com

Postage	\$ 0.44
Certified Fee	2.85
Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.59



Sent To
JENNIFER GUY
 Street, Apt. No.,
 or PO Box No. **1734 HARRISBURG RD NE**
 City, State, ZIP+4
CANTON, OH 44705

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> 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. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p>JENNIFER GUY 1734 HARRISBURG RD NE CANTON, OH 44705</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (transfer from service label)</p> <p>7010 1060 0002 2980 4484</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>

3745-19-01 Definitions.

(A) "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings; garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.

(B) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.

(C) "Emergency burning" means the burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following:

- (1) A tornado.
- (2) High winds.
- (3) An earthquake.
- (4) An explosion.
- (5) A flood.
- (6) A hail storm, a rain storm, or an ice storm.

(D) "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.

(E) "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residues.

(F) "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.

(G) "Ohio EPA" means the Ohio environmental protection agency director or agencies delegated authority by the director of the Ohio environmental protection agency pursuant to section 3704.03 of the Revised Code or the chief of any Ohio environmental protection agency district office.

(H) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed

specifically to comply with the requirements of rule 3745-17-09 or 3745-17-10 of the Administrative Code.

(I) "Residential waste" means any waste material, including landscape wastes, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.

(J) "Restricted area" means the following:

(1) Except as provided in paragraph (I)(2) of this rule, the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Revised Code, plus a zone extending one thousand feet beyond the boundaries of any such municipal corporation having a population of one thousand to ten thousand persons and a zone extending one mile beyond any such municipal corporation having a population of ten thousand persons or more according to the latest federal census.

(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 Protection Association codes may be obtained by contacting association at Battery March Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered www.nfpa.org/catalog/home/index.asp. Copies of the code are 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. 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

Statutory Authority: R.C. Section 3704.03(E)

Rule Amplifies: R.C. Section 3704.03(A), 3704.03(E)

Prior Effective Dates: 6/21/76, 10/30/87, 12/20/88, 11/27/00

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of 4

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.

(2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:

(a) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;

(b) They are not used for waste disposal purposes; and

(c) They shall have a total fuel area of three feet or less in diameter and two feet or less in height.

(3) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of rule 3745-50-45 of the Administrative Code.

(4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

Fires allowed by paragraphs (B)(1), (B)(2), and (B)(4) of this rule

- **shall not be used for waste disposal purposes and**
- **shall be of minimum size sufficient for their intended purpose;**
- **the fuel shall be chosen to minimize the generation and emission of air contaminants.**

(C) Open burning shall be allowed for the following purposes with **prior notification** to the Ohio EPA in accordance with paragraph (B) of rule 3745-19-05 of the Administrative Code:

- (1) 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.
- (2) Bonfires or campfires used for ceremonial purposes that do not meet the requirements of paragraph (B)(2) of this rule, provided the following conditions are met:
 - (a) They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;

(b) They are not used for waste disposal purposes; and

(c) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.

(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.

Effective: 07/07/2006

R.C. 119.032 review dates: 01/20/2006 and 07/07/2011

CERTIFIED ELECTRONICALLY

Certification Date 06/27/2006

Promulgated Under: 119.03

Statutory Authority: R.C. Section 3704.03(E)

Rule Amplifies: R.C. Section 3704.03(A), 3704.03(E)

Prior Effective Dates: 6/21/76, 10/30/87, 12/20/88, 11/27/00

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 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.

(B) Notification:

(1) Notification 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 shall be required by the Ohio EPA.

(2) Such notification shall inform the Ohio EPA regarding:

- (a) The purpose of the proposed burning;
- (b) The nature and quantities of materials to be burned;
- (c) The date or dates when such burning will take place; and
- (d) The location of the burning site.

(3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under Chapter 3745-19 of the Administrative Code and the Ohio EPA shall notify the applicant to this effect.

3745-19-05 3

Effective: 07/07/2006

3745-19-06 Open burning unilateral order.

(A) The director may assess and collect administrative penalties from any person who violates any of the rules in this chapter. Through unilateral orders, the director may assess a violator not more than two hundred-fifty dollars per day for each separate violation of the rules in this chapter for open burning on residential property and not more than one thousand dollars per day for each separate violation of the rules in this chapter for open burning on industrial, commercial, institutional, or municipal property. Commercial property includes construction sites, including, but not limited to, the construction of residential homes, if the sites are not properly permitted under section 3704.11(C) of the Revised Code. A separate violation is assessed for each day (24-hour period) the violation occurs.

(B) The director's authority under paragraph (A) of this rule is in addition to, and not in limitation of, the director's authority under section 3704.06 of the Revised Code to request the attorney general to initiate legal action to seek penalties of not more than twenty-five thousand dollars for each day of each violation for the violation of rules in this chapter.