

Air Pollution Control Division



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

Robert E. Pattison, MPA
Health Commissioner

Daniel J. Aleman
APCD Administrator

COPY

CERTIFIED MAIL

November 27, 2007

Mr. Neil Blackburn
2068 3rd Street SE
Canton, OH 44707

**Re: NOTICE OF VIOLATION OF THE CITY OF CANTON CODIFIED ORDINANCE
1513.02 (a) and (b); APPLICATION FOR APPROVAL OF RECREATION FIRE
AND LOCATION OF THE FIRE**

Dear Mr. Blackburn:

The Canton City Health Department, Air Pollution Control Division (APCD) represents the Ohio EPA in air quality matters within Stark County. As such, APCD employees are charged with the responsibility to investigate and enforce Ohio EPA (OEPA) air pollution regulations. APCD employees are authorized under Ohio Revised Code 3704.03 (L) to enter upon private property to determine if there is noncompliance with OEPA regulations.

A report was received from the Canton City Fire Department of an open burning incident on 11/20/2007 for an unauthorized open burning on your residence at 2068 3rd Street SE Canton, OH 44707. I inspected your residence on the morning of November 27, 2007 and obtained visual and photographic evidence of a violation of the City of Canton's Codified Ordinance 1513.02(a) and (b); more specifically an application for approval and the location of the fire. You stated that you had replaced the barrel and upon inspection of it, I saw no evidence of any waste disposal, just wood, some leaves and a small amount of cardboard to start a fire.

Since your residence is located within the Canton City limits, you live in what the OEPA defines as a restricted area. Individuals in restricted areas are permitted to conduct open burning for recreational and outdoor cooking purposes. The following conditions apply to recreational fires in the City of Canton;

*(a) **Application.** Application for approval of recreational fires shall be verbally submitted to the Fire Prevention Bureau at least forty-eight (48) hours before the fire is set. If a recreational fire is planned for a weekend or holiday, notification shall be given by 4:00 p.m. Friday or by*

4:00 p.m. on the last business day before the holiday. The following information shall be provided at the time the approval is requested: Contact (330) 489-3411 for further information.

- (1) The purpose of the fire;
- (2) The nature and quantities of the material to be burned;
- (3) The date, time and duration of the fire;
- (4) The location; and
- (5) The fire-extinguishing equipment to be provided.

(b) **Location.** The location of the fire shall not be less than fifty (50) feet from any structure.

(c) **Material.** The material shall be of the minimum size for the intended purpose, consist only of seasoned dry firewood and be ignited with a small quantity of paper. The fuel shall be chosen to minimize the generation and emission of air contaminants.

(d) **Size and Duration.** A recreational fire shall not be more than 2 ft. x 2 ft. x 2 ft. in dimension and shall not be permitted to burn longer than three (3) hours, unless approved by the Fire Prevention Bureau. All recreational fires shall be extinguished by 11:00 p.m.

(e) **Attendance.** A recreational fire shall be constantly attended until the fire is completely extinguished. Approved extinguishing equipment shall be available for immediate utilization at all times.

This Agency would appreciate your cooperation with regard to this matter. Should you have any questions concerning this letter or the open burning regulations, please contact me at (330) 489-3385.

Sincerely,



Denny Tan

Staff Field Inspector II
Air Pollution Control Division
Canton City Health Department

Enc: (1) OAC rule 3745-19-01
(2) OAC rule 3745-19-03
(3) Ohio EPA Open Burning Regulations Brochure
(4) City of Canton Codified Ordinances for open burning
(5) Canton Fire Prevention Bureau application for recreational fire
(6) Photographs

Pc: (1) Addressee via first-class and certified mail
(2) Open burn file
(3) NOV file

3745-19-01 Definitions.

As used in Chapter 3745-19 of the Administrative Code:

- (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 defoliant.
- (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 (1)(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 (1) 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:

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(a) National Fire Protection Association. Information on the National Protection Association codes may be obtained by contacting association at 1 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.

3745-19-01

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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

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:

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- (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.

3745-19-03

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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 Amplies: R.C. Section 3704.03(A), 3704.03(E)
Prior Effective Dates: 6/21/76, 10/30/87, 12/20/88, 11/27/00

What can I burn?

The following open fires are **allowed** in Ohio:

Type of fire	Location (tag or city* if generated on property)	Quantity
Barbecues, campfires, cookouts	Wood stack no larger than 2 ft. high x 3 ft. wide. Use clean, seasoned firewood or equivalent.	Wood stack no larger than 2 ft. high x 3 ft. wide. Use clean, seasoned firewood or equivalent.
Agricultural waste	Agricultural wastes and plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and material from crop or livestock production. This includes fence posts and scrap lumber, but not buildings. <i>Fire must be more than 1,000 feet from neighbor's inhabited building. Must notify Ohio EPA in advance.</i>	Agricultural wastes and plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and material from crop or livestock production. This includes fence posts and scrap lumber, but not buildings. <i>Fire must be more than 1,000 feet from neighbor's inhabited building.</i>
Land-clearing waste	Not permitted in any limits.	Plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and crop residues. <i>With prior written permission from Ohio EPA. This may take two weeks.</i>
Residential waste	Not permitted in any limits.	Plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and crop residues. Also wastes such as wood or paper products that are generated by one-, two-, or three-family residences. <i>Fire must be more than 1,000 feet from neighbor's inhabited building.</i>
Ceremonial fires	Wood stack no larger than 2 ft. high x 3 ft. wide. Duration no longer than three hours. Must use clean, seasoned firewood or equivalent. <i>Must notify Ohio EPA in advance.</i>	Wood stack no larger than 5 ft. high x 5 ft. wide. Duration no longer than three hours. No notification required.
Occupational fires: welding torches, heating tar, heating for warmth of outdoor workers and surfers	Use clean, seasoned firewood contained in a 55-gallon drum.	Use clean, seasoned firewood contained in a 55-gallon drum.
Firefighter training, Explosive material disposal	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>
Horticultural, silvicultural, range or wildlife management practices	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>
Disease or pest control	Local health department, the Ohio Department of Agriculture or the U.S. Department of Agriculture verifies to Ohio EPA that open burning is the only appropriate control method <i>and must notify Ohio EPA in advance.</i>	Local health department, the Ohio Department of Agriculture or the U.S. Department of Agriculture verifies to Ohio EPA that open burning is the only appropriate control method.

*Villages and cities are considered "restricted areas," which include:
 • within the boundaries of any municipal corporation;
 • within corporation limits and a 1,000-foot zone outside any municipal corporation having a population of 1,000 to 10,000; and
 • within corporation limits and a one-mile zone outside any municipal corporation with a population of more than 10,000. Call your local municipality for corporation boundaries.

For a complete copy of Ohio's open burning regulations, contact:

Ohio EPA
 Division of Air Pollution Control
 P.O. Box 1049
 Columbus, Ohio 43216-1049
 (614) 644-2270

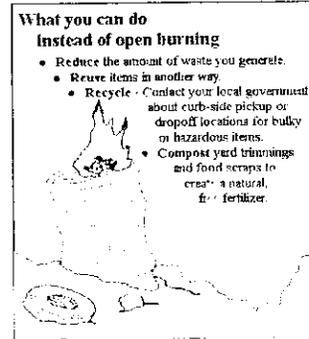
or visit our Web site at
www.epa.state.oh.us/dapc/general/openburning.html

OhioEPA
 State of Ohio Environmental Protection Agency

Before You Light It...

Know Ohio's Open Burning Regulations

June 2007



Ted Strickland, Governor
 Chris Koroluk, Director

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Local Air Pollution Control Agencies

1. Akron Regional Air Quality Management District (800) 589-2480
www.ci.akron.oh.us/Health04/divisions.htm
2. Canton Division of Air Pollution Control (330) 489-3231
www.cantonhealth.org/air_pollution_control.htm
3. Hamilton County Environmental Services (800) 889-0474
www.hcdoes.org
4. Cleveland Division of Air Quality (216) 664-2297
www.clevelandhealth.org
5. Regional Air Pollution Control Agency (Dayton Area) (800) 458-2115
www.rajca.org
6. Lake County Air Pollution Control (440) 350-2543
www.lcglut.org
7. Portsmouth Air Pollution Control (740) 353-5156
www.ci.portsmouth.oh.us/departments/health/
8. Toledo Division of Environmental Services (419) 936-3015
www.ci.toledo.oh.us/index.cfm?Article=940
9. Mahoning-Trimburll Air Pollution Control Agency (330) 743-3333
www.lychd.com/airpollution.html

OhioEPA

District Offices

- CDO - Central District Office - (800) 685-2339
 NEDO - Northeast District Office - (800) 685-6330
 NWDO - Northwest District Office - (800) 685-6930
 SEDO - Southeast District Office - (800) 685-7330
 SWDO - Southwest District Office - (800) 685-8930

When you burn refuse in burn barrels or open piles, the potential cost to your health, your home, your neighbors and your environment far exceeds the price of adequate collection services. Protect yourself, your neighbors and your wallet by knowing the rules—what you can burn and where.

What is open burning?

You are open burning any time you light an outdoor fire without a chimney or stack.

Why is open burning a problem?

Open burning can release many kinds of toxic fumes. Leaves and plant materials send aloft millions of spores when they catch fire, causing many people with allergies to have difficulty breathing. The pollutants released by open burning also make it more difficult to meet health-based air quality standards, especially in or near large cities. The gases released by open burning can also corrode metal siding and damage paint on buildings.

What open burning is never allowed?

Under Ohio law, these materials may not be burned anywhere in the state at any time:

- garbage—any wastes created in the process of breeding, preparing, cooking or consuming food;
- materials containing rubber, grease and asphalt or made from petroleum, such as tires, cars and auto parts, plastics or plastic-coated wire; and
- dead animals.

Other restrictions:

- Open burning is not allowed when air pollution warnings, alerts or emergencies are in effect.
- Fires cannot obscure visibility for roadways, railroad tracks or air fields.
- No wastes generated off the premises may be burned. For example, a tree trimming contractor may not haul branches and limbs to another site to burn.

Does Ohio EPA ever allow exceptions to the rules?

Under certain circumstances, yes. However, to burn a prohibited material or set a fire in a restricted area, you must receive written permission from Ohio EPA *before* you begin burning. This may take two weeks.

Can a community regulate open burning?

Yes. However, local ordinances cannot be less strict than the state law.

What happens if I'm caught illegally open burning?

Ohio EPA has the authority to enforce the state's open burning laws. Violations can result in substantial penalties. If you have any questions, or would like to report a suspected open burning incident, contact your Ohio EPA district office or your local air pollution control agency. Ohio EPA is represented by the district offices and nine local air agencies. See the map in this brochure for the agency to contact in your area.

Health Concerns

Open burning can release many kinds of toxic fumes. Leaves and plant materials send aloft millions of spores when they catch fire, causing many people with allergies to have difficulty breathing. The pollutants released by open burning also make it more difficult to meet health-based air quality standards, especially in or near large cities. The gases released by open burning can also corrode metal siding and damage paint on buildings.

City of Canton, Certified Ordinances

1513.02 APPLICATION, LOCATION, MATERIAL, SIZE AND DURATION.

(a) Application. Application for approval of recreational fires shall be verbally submitted to the Fire Prevention Bureau at least forty-eight (48) hours before the fire is set. If a recreational fire is planned for a weekend or holiday, notification shall be given by 4:00 p.m. Friday or by 4:00 p.m. on the last business day before the holiday. The following information shall be provided at the time the approval is requested:

- (1) The purpose of the fire;
- (2) The nature and quantities of the material to be burned;
- (3) The date, time and duration of the fire;
- (4) The location; and
- (5) The fire-extinguishing equipment to be provided.

(b) Location. The location of the fire shall not be less than fifty (50) feet from any structure.

(c) Material. The material shall be of the minimum size for the intended purpose, consist only of seasoned dry firewood and be ignited with a small quantity of paper. The fuel shall be chosen to minimize the generation and emission of air contaminants.

(d) Size and Duration. A recreational fire shall not be more than 2 ft. x 2 ft. x 2 ft. in dimension and shall not be permitted to burn longer than three (3) hours, unless approved by the Fire Prevention Bureau. All recreational fires shall be extinguished by 11:00 p.m.

(e) Attendance. A recreational fire shall be constantly attended until the fire is completely extinguished. Approved extinguishing equipment shall be available for immediate utilization at all times.



2068 3rd ST SE 44707 – McKinley TWP. Photo taken by Staff Field Inspector II, Denny Tan on 11/27/2007

Photo shows a burn barrel close to the fence and garage.



2068 3rd ST SE 44707 – McKinley TWP. Photo taken by Staff Field Inspector II, Denny Tan on 11/27/2007

Photo shows a burn barrel close to the fence and garage.

Recreational Fire

Application for approval of recreational fires shall be verbally submitted to the Fire Prevention Bureau at least forty-eight (48) hours before the fire is set. If a recreational fire is planned for an extended holiday, notification shall be given by 4:00 p.m. Friday, or by 12:00 p.m. the day following the holiday.

Name of Person Having Fire: _____ Phone: _____

Address & Location of Fire: _____

Purpose of Fire: _____

Today's Date: _____ Date of Recreational Fire: _____

Time of Fire: _____ a.m./p.m. through _____ a.m./p.m.

***** Note: Recreational Fires are not permitted to burn longer than three (3) hours, unless approved in advance by the Fire Prevention Bureau, and shall be extinguished by 11:00 PM**

Type of Material to be Burned: _____

***** Note: Only seasoned, dry fire wood may be used. Construction materials cannot be burned!!**

Size: A recreational fire shall not be more than 2 ft. x 2ft. x 2 ft. in dimension

Check type of extinguishing material/equipment that will be on hand at all times:

_____ Fire Extinguisher _____ Garden Hose _____ Sand

Attendance: A recreational fire shall be constantly attended until the fire is completely extinguished!

Location: Fire may not be within fifty (50) feet of any structure

Application Taken By

7005 3110 0000 8719 9940

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

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

OFFICIAL USE

Postage	\$
Certified Fee	2.65
Return Receipt Fee (Endorsement Required)	2.15
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To
 NEIL BLACKBURN
 Street, Apt. No., or PO Box No. 2068 3RD ST SE
 City, State, ZIP+4 CANTON OH 44707

PS Form 3800, June 2002 See Reverse for Instructions

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:

NEIL BLACKBURN
2068 3RD ST SE
CANTON OH 44707

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 X Neil Blackburn Addressee

B. Received by (Printed Name) Neil Blackburn C. Date of Delivery 11-29

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

2. Article Number
(Transfer from service label)
PS Form 3811, February 2004

7005 3110 0000 8719 9940

Domestic Return Receipt

102595-02-M-1540