

Air Pollution Control Division

Canton City Health Department

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



APC Contractual Representative
Serving All of Stark County

James M. Adams, R.S., MPH
Health Commissioner

Daniel J. Aleman, M.S., PE
APCD Administrator

COPY

Wednesday, March 25, 2009

Mr. Brian Stutz
14163 Sousa ST NW
North Lawrence, OH 44666

Certified Mail
Stark County

Re: NOTICE OF VIOLATION: OHIO ADMINISTRATIVE CODE 3745-19-04; UNAUTHORIZED ILLEGAL OPEN BURNING IN AN UNRESTRICTED AREA.

Dear Mr. Stutz:

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

On Tuesday, March 24th, 2009 at 3:05 PM., I inspected your residential property for illegal open burning of agricultural / landscape waste 14163 Sousa ST NW, in Lawrence Township of Stark County. I photographed the evidence of the open burning area within 1,000 feet of an inhabited building not on the property, a violation of The Ohio Administrative Code 3745-19-04.

Since this residential property is located in what the Ohio Administrative Code 3745-19-01 (K) defines as an unrestricted area, according to The Ohio Administrative Code, 3745-19-04 (B); open burning shall be allowed for the disposal of residential waste or agricultural waste generated on the premises if the following conditions are observed:

1. *The fire is set only when atmospheric conditions will readily dissipate contaminants;*
2. *The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;*
3. *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;*
4. *The wastes are stacked and dried to provide the best practicable condition for efficient burning; and*
5. *No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.*

"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.

The state law referenced in this letter issued by this Agency is OAC 3745-17-09 which is authorized by The Ohio Revised Code (ORC) 3704.03 (*Powers of director of environmental protection*). ORC 3704.05; (*Prohibited acts*) is the rule that would be utilized by the law department to seek a penalty by ORC 3704.99 (*Penalties*) of a fine not more than \$25,000.00 or imprisonment of not more than one year, or both, for each violation. Each day the violation continues after a conviction for a violation is a separate offense.

You are strongly advised to conduct any future burning in strict compliance with the Ohio EPA regulations so as to avoid any further response from this Agency. Should you have any questions concerning alternative methods of landscape waste disposal, this letter or the mentioned regulations, please contact me at 330.489.3385

Regards,



Denny Tan

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

Enc:

- 1) OAC 3745-19-04
- 2) Photograph taken 03/24/09 at 3:05 PM

Pc:

- 1) Open burn file; and
- 2) NOV Correspondence file, March 2009.

DT / dt

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To: MR BRIAN STUTZ
 14163 SOUSA ST NW
 NORTH LAWRENCE OH 44666