

Air Pollution Control Division



APC Contractual Representative
Serving All of Stark County

Canton City Health Department

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(330) 489-3385 • Fax: (330) 489-3335

Daniel J. Aleman, P.E., MBA
APCD Administrator

James M. Adams, MPH
Health Commissioner

CERTIFIED MAIL

December 7, 2009

Mr. Steven Lawrey
14177 Millersburg Rd SW
Navarre, OH 44662-9621

Re: ILLEGAL OPEN BURNING IN TUSCARAWAS TOWNSHIP, STARK COUNTY, OHIO

Dear Mr. Lawrey,

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.

On Monday November 29, 2009, the Brewster Fire Department responded to an open burning for waste disposal conducted by you at this address. The fire department reported to this office that the burnt material included landscape waste, residential waste, pallets, and garbage.

The subject property is located in what the Ohio EPA defines as an unrestricted area. This means that you are subject to Ohio Administrative Code 3745-19-04. I attach a copy for your reference. You will note that it does allow for the open burning of residential waste, subject to the five conditions listed under 3745-19-04 (B)(3). One such condition is that the fire must be located at a point at least one thousand feet away from an occupied structure not on the property. Based on satellite photography and information supplied by the fire department, this office believes that your fire did not meet this criterion.

Also, the fire department reported garbage in the fire. Garbage is expressly excluded from the Ohio EPA definition of residential waste (see the definition in OAC 4745-19-01).

This agency plans no further enforcement activities at this time but please be aware that there can be financial penalties for future violations. By copy of this letter to the listed property owner, they are being made aware that property owners can be held liable for violations committed by tenants.

Sincerely,

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

Enclosure: OAC Rule 3745-19-01, 3745-19-04, Satellite Photo

cc: Addressee via First Class Mail

George and Marcia L. Snellen, 1807 Buddy Williamson Rd., New Market, AL 35761 (Certified)
George and Marcia L. Snellen, 1807 Buddy Williamson Rd., New Market, AL 35761 (First class mail)
Chief Dale Starcher. Brewster Fire Department, 110 E. Main St., Brewster, OH 44613
APC Open Burn file
Complaints, Open Burn, Residential, Tuscarawas Township
GA Clark

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 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 (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 Batterymarch 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

3745-19-04 Open burning in unrestricted 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 an unrestricted area except as provided in paragraphs (B) to (C) 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 except when such fire is used for ceremonial purposes it may have a total fuel area no greater than five feet in diameter and five feet in height if the ceremonial fire burns no longer than three hours.

(3) Disposal of residential waste or 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.

(4) 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.

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

Fires allowed by paragraphs (B)(1), (B)(2), (B)(3) and (B)(5) of this rule shall not be used for waste disposal purposes, and shall be of the 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 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)(4) of this rule;
- (2) Instruction in methods of fire fighting or for research in the control of fire 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 rule 3745-19-03 of the Administrative Code. 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) Disposal of land clearing 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 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; and
 - (d) An air curtain destructor or other device or method determined by the director to be at least as effective is used to curtail release of air contaminants;
- (5) Recognized horticultural, silvicultural, range, or wildlife management practices; and
- (6) 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.

(D) Open burning shall be allowed for the 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.

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



14177 millersburg rd 44613

Make Bing your decision engine



Fire Dept states that fire was in a 10-12 foot fire pit/ring. Suspected location

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:

MR. STEVEN LAWREY
14177 MILLERSBURG RD SW
NAVARRE, OH 44662-9621

2. Article Number

(Transfer from service label)

7009 0080 0002 0413 1872

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Barbara Smith Addressee

B. Received by (Printed Name) Express Mail
Barbara Smith Registered Return Receipt for Merchandise

C. Date of Delivery
12/9/09 Insured Mail C.O.D.

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

7009 0080 0002 0413 1872

REGISTERED MAIL RECEIPT
 (If only for Return Receipt purposes)

Postage	\$	
Postage and Fee	2.80	
Postage and Fee	2.30	
Total Postage and Fees	\$	

MR. STEVEN LAWREY
14177 MILLERSBURG RD SW
NAVARRE, OH 44662-9621

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:

GEORGE & MARCIA L. SNELLEN
1807 BUDDY WILLIAMSON RD.
NEW MARKET, AL 35761

2. Article Number

(Transfer from service label)

7009 0080 0002 0413 1988

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Marcia L. Snellen Addressee

B. Received by (Printed Name) Express Mail
Marcia L. Snellen Registered Return Receipt for Merchandise

C. Date of Delivery
12-12-09 Insured Mail C.O.D.

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

7009 0080 0002 0413 1988

REGISTERED MAIL RECEIPT
 (If only for Return Receipt purposes)

Postage	\$	
Postage and Fee	2.80	
Postage and Fee	2.30	
Total Postage and Fees	\$	

GEORGE & MARCIA L. SNELLEN
1807 BUDDY WILLIAMSON RD.
NEW MARKET, AL 35761