



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

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

November 16, 2012

CERTIFIED MAIL

Dean & Tammy Frysinger  
Property Owners  
2320 Adgate Road  
Lima, Ohio 45805

Dear Mr. & Mrs. Frysinger:

This office received a complaint on November 14, 2012, concerning open burning being conducted on your property. My investigation, conducted on November 15, 2012, shows an approximately 6' x 10' burn site was used to burn the following materials for disposal within 1000' of adjacent residences in a restricted area: household trash with plastics; wire; rubber belts; glass bottles; steel cans; aluminum cans, and; plastic bottles. There was also a pile of scrap metal off to the side which looked to have been burned and is now rusted. About 40' away, and slightly down hill was an area approx. 10' x 20' with more of the same items as described above along with automotive parts, sections of rubber hose, miscellaneous metal parts brush and construction and demolition debris.

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. While you have stated that some of the past open burning events were not conducted on your property with your knowledge, please be aware that you, as the property owners, may be held liable for current and future violations because compliance with the rules on your property is ultimately your responsibility.

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 December 3, 2012.

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

Regarding the disposal of the remaining debris, that issue may fall under the jurisdiction of either Ohio EPA's Division Materials & Waste Management (DMWM) or the local county's health department. In either regard, this matter will be referred to DMWM for their involvement and they may contact you regarding this matter.

Please note that the submission of the requested information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code. Ohio EPA will determine later whether to pursue such penalties in this case. 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](mailto:thomas.cikotte@epa.state.oh.us).

Sincerely,



Thomas C. Cikotte  
Division of Air Pollution Control

/llr

Enclosure

pc: Bill Kelly, Allen County Health Department  
Thomas C. Cikotte, DAPC-NWDO  
Certified Mail Receipt Number 7009 1410 0001 1834 4782

ec: Brian Dickens, US EPA, Region V  
Bruce Weinberg, DAPC - CO  
Tom Sattler, DAPC - NWDO  
Thomas C. Cikotte, DAPC - NWDO