



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

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

December 10, 2012

CERTIFIED MAIL

Ms. Judy Marbaugh, Co-Owner
Lefeld Implement, Inc.
5228 State Route 118
Coldwater, Ohio 45828

Dear Ms. Marbaugh:

On December 5, 2012, while in the area for other business, I observed illegal open burning being conducted on your property. I observed a large metal cylinder (approximately eight feet in diameter and ten feet high) being used to burn an unknown material for disposal purposes and producing a heavy, dark gray smoke. This occurred within an unrestricted area.

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 3745-19-04(A) and Ohio Revised Code (ORC) 3704.05.

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

A copy of the OAC rules pertaining to open burning has been enclosed for your review. To be clear, commercial businesses of this type are not permitted to burn any material for disposal, anywhere in Ohio. 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 31, 2012. Also, should you like these rules electronically, in PDF format, please feel free to contact me via the e-mail address below and I can provide them for you.

I also observed this practice at the facility several years ago. A verbal warning and instruction to cease open burning was given to the facility at that time. As the practice has continued, Ohio EPA will now take more formal action, in the form of this NOV.

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Furthermore, this office would also suggest the removal and proper disposal of the metal cylinder which has been used for burning from the property as to reduce or eliminate the possibility of misinterpreting past violations as new violations.

During the course of my investigation it was determined that Lefeld Implement, Inc., is part of a larger organization, known as the Kenn-Feld Group or Kenn-Feld Group, LLC. During our conversation you had stated that you, as a co-owner of Lefeld Implement, had the authority to disseminate the open burning information to the other facilities within the Kenn-Feld Group. Accordingly, with this NOV, Ohio EPA will consider that all members in the Kenn-Feld Group will have been sufficiently informed of Ohio's open burning rules and will comply with them as well. Be aware that future violations of Ohio's open burning rules at any of these facilities may result in this office recommending elevated enforcement, which would include, but is not limited to, a fine, as described in OAC rule 3745-19-06(A).

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.

Sincerely,



Thomas C. Cikotte
Division of Air Pollution Control

/llr

Enclosure

pc: Mercer County Health Department
Thomas C. Cikotte, DAPC - NWDO
Certified Mail Receipt Number 7011 3500 0000 8204 3101

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