



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

Re: Hancock County
Open Burning Complaint
Warning Letter

April 11, 2013

CERTIFIED MAIL

Mr. Daniel T. Brown
Property Owner
5612 County Road 313
Rawson, Ohio 45881

Dear Mr. Brown:

On March 27, 2013, this office received a complaint alleging that illegal open burning is being conducted on your property. The complaint was forwarded to me to resolve and was investigated by Ms. Alyse Johnson and myself on April 1, 2013, and April 2, 2013. Multiple issues are going to be addressed via this investigation and are described below.

An allegation of the complaint indicated that metal racks used in painting operations were being burned clean in a pit behind one of the barns on the property, as part of your business, Hancock Burn Ovens (Facility ID 0332000183) (HBO). Contrary to your previously submitted reporting, you have stated that the oven permitted for HBO has been dismantled and sold back to the manufacturer. During our visit it was confirmed that the oven permitted as emissions unit N001 was not on either the property addressed above or the previously known address of 5219 County Road 313, Rawson, Ohio. As recommended, this office received a written request, on April 5, 2013, to shut down that facility. Accordingly, HBO has been shut down in our records and has no permitted emission units in existence. Any new units brought into existence may require permitting by this agency prior to installation and/or operation. To be clear, as a commercial business, any wastes generated by HBO are not permitted to be burned for disposal and any operations conducted by HBO involving the burning of anything for any part of any process may be subject to Ohio EPA regulation. It is recommended that you consult this office prior to such operations being started.

As to the remainder of the allegation, you denied that racks were burned on your property, stating that such a practice would warp and bend the racks in such a way that it would be unacceptable to your customers. Evidence of open burning was observed on the property but it is believed to be either residential or agricultural in nature. A copy of the open burning rules has been enclosed for your reference.

According to the Hancock County Auditor, there is a small area on your property that meets the 1000' setback requirement in Ohio Administrative Code (OAC) rule 3745-19-04(B)(3). As discussed while on site, you must comply with the requirements of that rule when burning any agricultural or residential wastes on site. While we were on site you committed to using a dumpster, which you already have on site, for disposal of your residential and agricultural wastes so there should be no confusion regarding these rules in the future.

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However, after our visit Ohio EPA obtained from the Hancock County Sheriff's Office (HCSO) indicating that on March 15, 2013, HCSO staff investigated "suspicious circumstances" on the property and ultimately discovered "... several plastic grates. The plastic was being burnt off the metal interior frames. There was a stack of metal frames that had already been burnt. Also near the fire was a small propane hand held torch and a plastic jug (likely containing a fluid to assist in starting the fire)."

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 OAC rule 3745-19-04(A) and Ohio Revised Code (ORC) 3704.05. As the property owner, it is your responsibility to clearly communicate the open burning rules to the other residents and it is ultimately your responsibility to ensure that future violations do not occur on your property.

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

Also discussed while we were on site was the allowance of recreational fires. The applicable recreational fire rules are found in the enclosed rules, in OAC rule 3745-19-04(B)(2). Please note again that the burning of structural lumber from barn demolition is not acceptable in recreational fires. Recreational fires are to be fueled only by "clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emission equivalent to or lower" than clean seasoned firewood.

The final issue observed on the property is the possibility that the outdoor wood-fired boiler (OWB) on site is being used as an incinerator. This is not considered "open burning" because the emissions pass through a chimney. For the unit to be considered an OWB, it must be fired using only clean materials recommend by the manufacturer, such as clean seasoned firewood, wood pellets, etc. Residential and agricultural wastes are not acceptable fuels. Otherwise, the unit could be seen to be operating as an incinerator and, therefore, would be subject to the applicable regulations found in OAC rule 3745-17-09. Compliance with OAC rule 3745-17-09 would require control measures, most commonly proven through use of a secondary combustion chamber with an afterburner. The OWB on site is not adequately equipped to comply with this standard.

On a day where heating a home would have been justified, with ambient temperatures around 40°F and approximately 20 mph winds, the unit was not being used and was found to be loaded with household trash including plastics and metals, pallets and pieces of treated lumber believed to be either fence posts or telephone poles. If in the future the unit is found to have burned such materials for disposal, the unit will be considered to be an unpermitted incinerator requiring permitting and may result in this office recommending elevated enforcement, which would include, but is not limited to, a fine. However, again, while we were on site you committed to using a dumpster already located on site for disposal of your residential and agricultural wastes so there should be no confusion regarding these rules in the future.

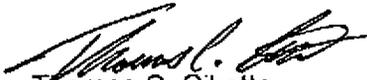
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Please submit a written response acknowledging your receipt of this letter, these rules, your understanding of the rules and your commitment that there will be no future violations of the rules on any property that you own or are operating on. That response should be addressed to this office, at my attention, and should be received no later than April 26, 2013.

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 and/or if additional justified complaints are received after the receipt date of this letter.

Again, if you have any questions regarding this letter or the open burning regulations, please feel free to contact me at (419) 373-3137 or via e-mail at thomas.cikotte@epa.ohio.gov. Should you have questions or concerns pertaining to future business concerns of HBO or any other company owned or operated in Hancock County, please feel free to contact Julie McCarthy at (419) 373-3115 or via e-mail at julie.mccarthy@epa.ohio.gov.

Sincerely,



Thomas C. Cikotte
Division of Air Pollution Control

/l/r

Enclosure

pc: Hancock County Health Department
Thomas C. Cikotte, DAPC – NWDO
Certified Mail Receipt Number 7009 1410 0001 1834 3204

ec: Brian Dickens, US EPA, Region V
Bruce Weinberg, DAPC – CO
Tom Sattler, DAPC – NWDO
Jennifer Jolliff, DAPC – NWDO
Thomas C. Cikotte, DAPC – NWDO
Alyse Johnson, DAPC – NWDO
Julie McCarthy, DAPC – NWDO