



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

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

April 12, 2013

Certified Mail

Mr. James Phillips, Owner  
Phillips Excavating  
8539 County Road, 17  
Oak Harbor, Ohio 43449

Dear Mr. Phillips:

This office received a complaint on April 12, 2013, concerning open burning being conducted by your company at 3950 N. Apling Rd. in Oak Harbor, Ohio. My investigation, conducted on April 4, 2013, shows that your organization was contracted to demolish a barn on site and that the debris was burned for disposal. The fire from the burning of the barn is believed to have spread to a newer barn structure and then to the house on site.

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 with the above cited violations.

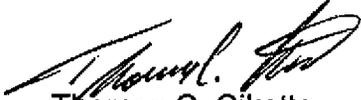
A copy of the OAC rules pertaining to open burning has been enclosed for your review. Please provide a written response acknowledging your receipt of this letter and your understanding of the rules. If you do not understand the rules please contact this office for additional explanation before responding. Your response is requested no later than April 29, 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. 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.

Mr. James Phillips  
April 12, 2013  
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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

/cg

Enclosure

pc: Ottawa County Health Department  
Thomas C. Cikotte, DAPC – NWDO  
Certified Mail Receipt Number 7011350000082042142

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