



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

September 4, 2007

RE: **American Scrap Tire Recovery, Inc.
Notice of Violation**

CERTIFIED MAIL

Mr. Sanford Schroll
American Scrap Tire Recyclers Inc.
3574 Myers Road
Geneva, Ohio 44041

Perfect Mulch
Division of American Scrap Tire Recyclers Inc.
3574 N. Myers Road
Geneva, Ohio 44041

Dear Mr. Schroll:

On June 29, 2007, and July 23, 2007, Ohio Environmental Protection Agency (Ohio EPA) conducted inspections of the American Scrap Tire Recovery, Inc. (ASTRI) facility at 3573 North Meyers Road, Geneva, in Ashtabula County. John Hujar, Jarnal Singh, and I, representing Ohio EPA Division of Solid and Infectious Waste Management (DSIWM), were present for inspection of the facility on June 29, 2007, and Harry Smail, Karen Morr, and I, representing Ohio EPA DSIWM, were present for the inspection on July 23, 2007. Sandy Schroll was present for the facility on both inspection dates. The purpose of the inspection was to determine compliance with Ohio's solid waste and scrap tire laws and regulations.

The following violations were observed at ASTRI:

1. **FAILURE TO IMPLEMENT MANDATORY CLOSURE**

Ohio Administrative Code (OAC) Rule 3745-27-66(A)(3) state, in part, that final closure activities shall be mandatory for a scrap tire collection, storage, or recovery facility if *"A scrap tire collection, storage, or recovery facility license held by the facility has expired, a further license has been applied for and denied, and all remedies for such denial have either been exhausted, or waived by failure to pursue such remedies in a timely manner."*

OAC Rule 3745-27-66(B) requires a final closure plan that includes, at a minimum, the name and location of the facility, a schedule and description of the steps necessary to close the facility, and the name, address, and telephone number of the person or office to contact regarding the facility during closure.

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OAC Rule 3745-27-66(C)(3) requires to the owner or operator implementing the closure to:

- provide written notice, not later than sixty days prior to the anticipated date upon which the facility will cease to accept scrap tires;
- post signs that are easily visible and contain certain mandatory language not later than seven days after the facility has ceased to accept scrap tires, and maintain the signs for six months after closure;
- remove and properly dispose of all scrap tires not later than thirty days after the facility has ceased to accept scrap tires;
- remove any solid waste remaining on site and dispose of it at an appropriate facility;
- clean all areas of the facility and any appurtenances;
- submit the final annual report, required by OAC Rule 3745-27-65(J)(3), to the Director.

OAC Rule 3745-27-66(D) requires the owner or operator to treat the facility for vectors, as needed, not later than sixty days after the facility has ceased to accept scrap tires.

OAC Rule 3745-27-66(E) requires final closure certification.

OAC Rule 3745-27-66(G) requires the owner or operator to obtain written concurrence from the health department or Ohio EPA that the facility has completed requirements of this rule.

On November 18, 2002, the Ashtabula County Board of Health revoked ASTRI's 2002 solid waste facility license. Therefore, the owners of ASTRI are in violation of the above rules due to failure to implement mandatory closure as a result of the 2002 license being revoked. According to our calculations, the owners of ASTRI have approximately 3,500 scrap tires in trailers and approximately 875 cubic yards of single pass scrap tire shreds in trailers and on ground, therefore the owners of ASTRI must remove the scrap tires placed on the property and properly dispose of them into an appropriate licensed and registered scrap tire facility.

2. **OPEN DUMPING**

Ohio Revised Code (ORC) Section 3734.03 that states, in part, *"No person shall dispose of solid wastes by open burning or open dumping. . . ."*, and **OAC Rule 3745-27-05(C)** that states, in part, *"No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed"* for open dumping on ASTRI property.

At the time of the inspections, the owners of ASTRI had piles of metal shaving and rubber fines stored outside of the facility. According to our calculations, there are approximately 611 cubic yards of metal shaving and rubber fines. Therefore, the owners of ASTRI are in violation of this law and rule due to open dumping of metal shaving, rubber fines, and scrap tire shreds. The owners of ASTRI need to remove and properly dispose of the metal shaving, rubber fines and scrap tire shreds at an appropriate licensed and permitted solid waste facility.

3. **GENERAL FACILITY OPERATION AND SCRAP TIRE MANAGEMENT**

OAC 3745-27-65(C)(3) states *"The owner or operator shall maintain compliance with any requirements of Chapters 3704., 3714., and 6111. of the Revised Code, including obtaining any permits and authorizations required by those chapters."*

OAC Rule 3745-27-65(C)(9) states *"[t]he owner or operator shall manage the facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution. The owner or operator shall initiate additional monitoring or supplemental effective control measures as deemed necessary by the health commissioner, the director, or authorized representatives."*

Ohio EPA observed scrap tires in trailers and scrap tire shreds stored outside in close proximity to the buildings and in close proximity to combustible vegetation. The owners of ASTRI are not operating as a licensed scrap tire facility, and therefore must remove the scrap tires placed on the property and properly dispose of them into an appropriate licensed and registered scrap tire facility.

4. **FINACIAL CLOSURE COSTS**

OAC Rule 3745-27-15(J)(3)(g) states that scrap tire recovery facilities are required to annually *"updated final closure cost estimate, adjusted for inflation and for any*

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change in final closure cost estimate, required by rule 3745-27-15 of the Administrative Code."

OAC Rule 3745-27-15(C)(1)(b) states *"states "The final closure financial assurance instrument for a scrap tire storage or recovery facility, shall contain an itemized written estimate, in current dollars, of the cost for a third party to complete final closure of the facility. Ohio EPA may review, approve, and/or require revisions to the final closure cost estimate and/or to the final closure financial assurance instrument. The cost estimate shall be based on one of the following:*

- (i) The cost of final closure performed in accordance with rule 3745-27-66 of the Administrative Code.*
- (ii) The fixed fee final closure cost estimate calculated in accordance with paragraphs (C)(3) and (C)(4) of this rule."*

The owners of ASTRI are in violation due to failure to maintain financial assurance. The owners of ASTRI must secure and maintain financial assurance to cover removal and disposal costs for all scrap tires at the facility. Please submit documentation to Fanny Haritos at Ohio EPA, Lazarus Government Center, P.O. Box 1049, Columbus, Ohio 43216-1049.

5. **BOARD ORDER VIOLATIONS**

Board Orders dated May 14, 2001, states, in part, that ASTRI is "ordered to abate all waste tire disposal violations by June 25, 2001." In addition, Board Revocation Action dated November 18, 2002, states that "the solid waste facility license issued to American Scrap Tire Recyclers, Inc. is hereby revoked."

The owners of ASTRI are in violation of these Board Orders for failure to abate the scrap tire disposal violations by June 25, 2001. Furthermore, tires remain on the property despite the license being revoked on November 12, 2002. The owners of ASTRI must immediately remove the scrap tires placed on the property and properly dispose of them into an appropriate licensed and registered scrap tire facility.

6. **COURT ORDER VIOLATIONS**

Agreed Judgment Entries, dated March 29, 2002 and July 22, 2002, states that the defendants shall properly dispose the scrap tire equivalents stored outside of the facility. In addition, the July 22, 2002 agreement states that the entity must cease to accept tires.

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Ohio EPA observed scrap tire derivatives, such as metal shavings, rubber fines, and scrap tire shreds, in large piles in trailers and on the ground. Ohio EPA also observed whole tires in the building and in trailers. Therefore, the owners of ASTRI has not complied with the March 20, 2006 Director's Final Findings and Orders. The owners of ASTRI must immediately remove the scrap tires placed on the property and properly dispose of scrap tires at an appropriate licensed and registered scrap tire facility.

8. **ILLEGAL TRANSFER OF SCRAP TIRES**

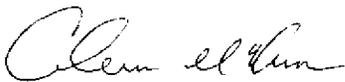
OAC Rule 3745-27-45(A)(1) states, in part, "... no person shall transport scrap tires in the state of Ohio, without first obtaining an annual registration certificate."

Upon review of scrap tire records, Perfect Mulch (a division of American Scrap Tire Recycler's Inc.) transported at least 347 whole scrap tires to RRI of Ohio, Inc. at 1165 Brittain Street, Youngstown, Ohio in September 2006. Furthermore, ASTRI accepted 11 loads of approximately 440 cubic yards of scrap tire chips from RRI of Ohio, Inc. Therefore, Perfect Mulch is in violation of OAC 3745-27-45(A)(1).

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code on under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

If you have any questions, please contact me at (330) 963-1268.

Sincerely,



Colum McKenna
Environmental Specialist
Division of Solid and Infectious Waste Management

CM:cl

cc: Melinda Berry, DSIWM-CO
Harry Smail, DSIWM-CO
Bob Eubanks, AGO
Raymond Saporito, ACHD
FILE: [TUKEL/TIRE/ASTRI/COR/04]

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