



State of Ohio Environmental Protection Agency

Butler County
Health Dept
Gen. Corr.

Southwest District Office

401 E. Fifth St.
Dayton, Ohio 45402

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

March 4, 2008

Ms. Patty Roark
5155 Augspurgen Road
Hamilton, Ohio 45011

RE: Notice of Violation- Open Dumping/Open Burning
Property located at 5155 Augspurgen Rd, Butler County

Dear Ms. Roark:

On February 8, 2008, Monte Bluebaum and I representing the Ohio Environmental Protection Agency (Ohio EPA), Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM), responded to a complaint of open dumping on the property located at 5155 Augspurgen Road (Parcel No.L5220058000007), Hamilton, Butler County, Ohio.

The property (Parcel No.L5220058000007) is the site of open dumping of solid wastes and construction and demolition debris (C&DD). The purpose of this comprehensive inspection was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3734.

During my inspection on February 8, 2008, I observed the following:

1. Miscellaneous municipal solid waste and construction and demolition debris (C&DD) (see Figures 2-13) including, but not limited to: plastic buckets, paint cans, pop cans, household garbage, bottles, fuel containers, fuel tank, television sets, hoses, outlet plates, scrap tires, box freezer, plastic tarps, mattresses (one located on ground close to garage & one in pile), aluminum siding, furniture foam, bricks, concrete, pvc piping, metal, have been dumped along the property in several areas along the northeast and northwest quadrant of the property near the storage garages and along the property boundary.

Municipal solid waste is defined under OAC Rule 3745-27-01(M)(6), which states in part:



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“Municipal solid waste” is a type of solid waste generated from community, commercial, and agricultural operations...

Construction and demolition debris is defined under OAC Rule 3745-400-01(F), which states in part:

“Construction and demolition debris” or “debris” means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways.

Open Dumping is defined under Ohio Revised Code (ORC) Section 3734.01(I), which states in part:

“Open dumping” means the depositing of solid wastes into a body of or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.



Figure 1: Property located at 5155 Augspurgen Rd





Figure 2: Trash bag along NE fence line



Figure 3: Pile MSW & C&DD located on NE section of property



Figure 4: C&DD located near NW property line

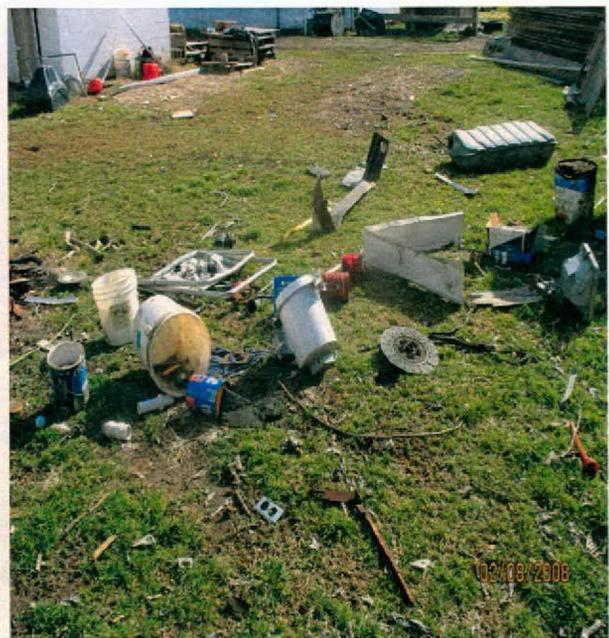


Figure 5: Misc msw on ground near storage garages



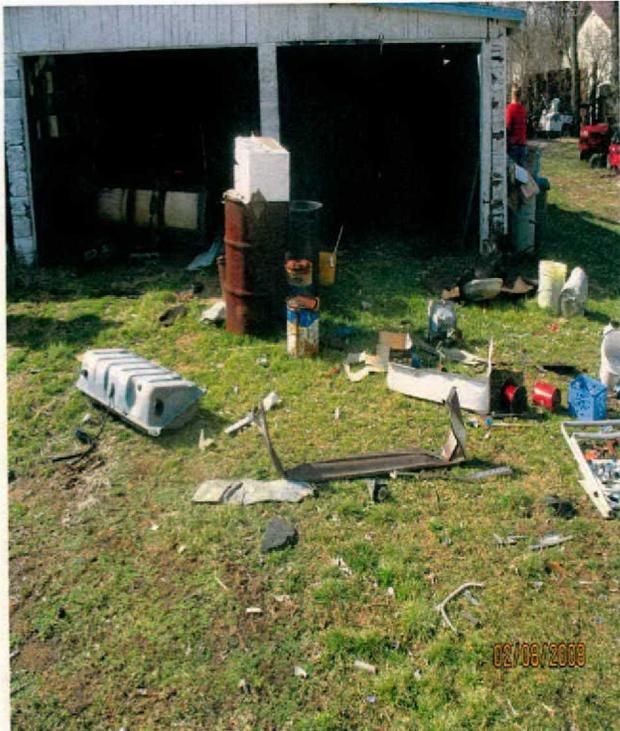


Figure 6: Misc msw near storage garages



Figure 7: scrap tires, plastic tarps, couch, chairs, wood, wallboard



Figure 8: Misc msw & C&DD on ground near garage



Figure 9: solid waste & C&DD on ground near camper





Figure 10(Left): Scrap equipment near fence



Figure 11(Right): Clothing, household garbage, freezer located near large tire pile SW corner of property

Disposal of solid waste in an unlicensed solid waste facility constitutes open dumping and places you in violation of the following Solid Waste Laws and Regulations:

The open dumping of solid wastes observed on this property is a violation of Ohio Revised Code (ORC) Section 3734.03, which states in part:

“No person shall dispose of solid wastes...by open burning or open dumping...”

Open Dumping is also a violation of OAC Rule 3745-27-05(C), which 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”.

Operating and maintaining a solid waste facility without a license is a violation of ORC Section 3745.05(A), which states in part:

“Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code”.



This is also a violation of OAC Rule 3745-37-01(A), which states in part:

“No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district”.

The above violations of the ORC, and the OAC, constitute a violation of ORC 3734.11(A), which states:

“No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code”.

Disposal of C&DD in an unlicensed facility is a violation of ORC Section 3714.06(A), which states is part:

“No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a construction and demolition debris facility installation and operation license...”

The illegal disposal of C&DD on the property is a violation of OAC Rule 3745-400-04(B), which states in part:

“No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code”.

This is also a violation of OAC Rule 3745-37-01(C), which states in part:

“No person shall establish, modify, operate or maintain a construction and demolition debris facility without a construction and demolition debris facility license issued by the licensing authority except as otherwise specified in this rule”.



2. During the inspection I observed scattered scrap tire throughout the property near the house and a pile ranging from fifty (50) to seventy-five (75) scrap tires located on the southwest corner of the property. I also observed water in the scrap tires located on the southwest corner of the property (See figures 12 & 13).



Figure 12(Left) & 13(Right): Scrap tire pile on SW corner of property & freezer, and pile of clothes & misc. solid wastes

Scrap tires must be properly stored and managed in accordance with Ohio's Scrap Tire regulations pursuant to OAC Rule 3745-27-60. The scrap tires on the property were observed to have water collecting in them.

The improper storage and handling of scrap tires on the property is a violation of **OAC Rule 3745-27-60(B)(1)**, which states in part:

"The storage of scrap tires in any amount outside or inside a trailer, vehicle, or building shall be deemed a nuisance, a hazard to public health or safety, or fire hazard unless the tires are stored in accordance with the following standards:

Sufficient drainage shall be maintained such that water does not collect in the area where scrap tires are stored."

This is a violation of **OAC Rule 3745-27-60(B)(6)(c)**, which states in part:

"Scrap tire storage piles of five hundred scrap tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles."

Combustible material including wood, weeds and tree debris, was present in and around the piles of scrap tires on the property. This is a violation of **OAC Rule 3745-27-60(B)(6)(e)** which states in part:



“Fire lanes shall be maintained to be free of combustible material including but not limited to weeds and leaves.”

This is also a violation of **OAC Rule 3745-27-60(B)(6)(f)** which states in part:

“Sufficient fire lanes shall be maintained to allow access of emergency vehicles at all times to and around the scrap tire storage piles and areas.”

Improper storage of scrap tires poses several potential problems for the local residents, environment, and the emergency crews in the area. Scrap tires provide an optimal breeding ground for mosquitoes. Mosquitoes identified at tire piles in Ohio can carry St. Louis Encephalitis, La Crosse Encephalitis, Yellow fever, Dengue Fever and West Nile Virus.

The above violations of the ORC, and the OAC, constitute a violation of ORC 3714.13 which states:

- “(A) No person shall violate any section of this chapter.
- “(B) No person shall violate a rule adopted under this chapter.
- “(C) No person shall violate an order issued under this chapter. Violation of an order issued by a board of health under this chapter is not also a violation of section 3709.20 or 3709.21 of the Revised Code, whichever is applicable.”

The Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping of solid wastes and illegal disposal of C&DD.

- This letter serves to inform you that **the solid wastes and C&DD on your property must be removed for proper disposal** (E.g., solid waste in a licensed sanitary landfill) and **must be taken to a licensed facility**.
- **Please provide, at a minimum, a time frame for removal of all debris and an action plan for the removal. The plan must also contain the location of the licensed facility where debris will be taken for proper disposal. The plan must also contain milestones projecting completion of work by day and/or week.**
- **Receipts documenting proper disposal must be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM) at the letterhead address.**
- **A re-inspection will be scheduled to verify that the clean-up is complete to document your return to compliance with Ohio Law.**

Please respond in writing within fourteen (14) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations. Failure to comply with this Notice of Violation will result in escalated enforcement.



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Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

As such, corrections of the violations cited herein are expected to begin immediately.

If you have any questions, please contact me at (937) 285-6046.

Sincerely,



Maria Lammers, R.S.

Environmental Specialist

Division of Solid and Infectious Waste Management



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