



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

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www.epa.state.oh.us

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

April 15, 2009

CERTIFIED MAIL

Estate of Max Davis
1579 West State Highway 366
Safford, Arizona 85546

**RE: DAVIS TIRE, 1144 POLAND AVE. YOUNGSTOWN, OH, MAHONING COUNTY
NOTICE OF VIOLATION (NOV)-OPEN DUMPING OF SCRAP TIRES**

Dear Mr. Davis:

On March 11, 2009, the Ohio Environmental Protection Agency (Ohio EPA) Division of Solid and Infectious Waste Management (DSIWM) Northeast District Office (NEDO) visited the Davis Tire property (Property) located at 1144 Poland Avenue in Youngstown, Mahoning County, Ohio. Ohio EPA has, in the past, issued numerous violation notices for the unauthorized storage and open dumping of scrap tires at this site. In addition, a tire fire occurred at this site on August 11, 2008. The purpose of the March 11, 2009, visit was to determine compliance with Ohio's solid waste laws and regulations.

Scrap tires still remain openly dumped throughout the property as shown in Attachment A: Photos 1 through 6. Therefore, the following violations of the **Ohio Revised Code (ORC)** and **Ohio Administrative Code (OAC)** concerning disposal of scrap tires exists at this property:

1. **ORC 3734.02(C)** which states that "*...no person shall establish a new solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation regarding the facility and method of operation and receiving a permit issued by the Director....*"
2. **ORC Section 3734.03** which states, in part, that "*[n]o person shall dispose of solid wastes by open burning or open dumping....*"
3. **ORC 3734.05(A)(1)** states, in part, that "*...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.*"

4. **OAC Rule 3745-27-05(C)** which states that "*[n]o 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) responsibility 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.*"
5. **OAC Rule 3745-27-60(B)(1)** which states, "*[s]ufficient drainage shall be maintained such that water does not collect in the area where scrap tires are stored...*"

OAC Rule 3745-27-60(B)(7) states, "*[t]he following requirements [of OAC Rule 3745-27-60(B)(7)] apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure:*"

6. **OAC Rule 3745-27-60(B)(7)(a)** which states in part, "*[i]ndividual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area.*"
7. **OAC Rule 3745-27-60(B)(7)(b)** which states, "*[s]crap tire storage piles shall not exceed eight feet in height.*"
8. **OAC Rule 3745-27-60(B)(7)(c)** which states, "*[s]crap 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.*"
9. **OAC Rule 3745-27-60(B)(7)(d)** which states, "*[s]crap tire storage piles of more than five hundred scrap tires including single or multiple racks containing a total of more than five hundred scrap tires shall be separated from other scrap tire storage piles and from buildings and structures by a fire break with a width equal to or greater than fifty-six feet in accordance with the fire break chart in appendix I to rule 3745-27-65 of the Administrative Code.*"

OAC Rule 3745-27-60(B)(8) states, "*[t]he following requirements [of OAC Rule 3745-27-60(B)(8)] apply to the storage of scrap tires in a building or covered structure:*"

10. **OAC Rule 3745-27-60(B)(8)(a)** which states, in part, "*[i]ndividual scrap tire storage piles shall not exceed two thousand five hundred feet in basal area and the total number of scrap tires shall not exceed the amount specified in paragraph (A) of rule 3745-27-61 of the Administrative Code.*"
11. **OAC Rule 3745-27-60(B)(8)(b)** which states, "*[t]he width of aisles between scrap tire storage piles shall be at least eight feet.*"

12. **OAC Rule 3745-27-60(B)(8)(d)** which states, “[t]he clearance from the top of scrap tire storage piles to sprinkler deflectors shall be at least three feet.”
13. **OAC Rule 3745-27-60(B)(11)** which states in part, “[f]ire breaks shall be maintained free of all combustible material including but not limited to weeds, leaves, and debris.”
14. **OAC Rule 3745-27-60(C)** which states, in part, “[a]nyone storing scrap tires shall maintain mosquito control...”

As stated above, a tire fire of less than 10,000 scrap tires occurred on the Property on August 11, 2008. Therefore, the following violations also exist:

15. **OAC Rule 3745-27-79(B)(1)(a)** which states in pertinent part, “[t]he responsible individual shall characterize and, if necessary, remediate areas of contamination resulting from the open burning of scrap tires...[a]fter the occurrence of a fire at a site or facility.”
16. **OAC Rule 3745-27-79(B)(3)** which states, “[w]henver there is a fire at a site or facility, the responsible individual shall immediately do the following:
 - (a) Notify local police and fire agencies.
 - (b) Notify the Ohio EPA emergency response team using their twenty-four hour toll free number [800-282-9378].
 - (c) Take all reasonable actions necessary to suppress the fire and to protect human health and safety and the environment.
 - (d) Take all reasonable measures necessary to contain any residuals including but not limited to pyrolytic oil and water that result from suppressing a fire at the site or facility. These measures shall include establishing berms, dikes or other containment devices where necessary.
 - (e) Take all reasonable measures necessary to ensure that fires do not occur, recur, or spread to other areas of the site or facility. These measures shall include removing or isolating tires and/or portable containers.”
17. **OAC Rule 3745-27-79(C)(1)** which states, “[a]fter the occurrence of a fire at a site or facility, the responsible individual shall complete the following actions, as prioritized:
 - (a) Priority 1: Within seven days of the occurrence of a fire at a site or facility, notify, in writing, the Ohio EPA district office in which the site or facility is located, the local solid waste management district, the Ohio EPA central office, and the local health department. The responsible individual shall

include in the notification the name and telephone number of the contact person reporting the fire; the address or location of the scrap tire fire; the date and duration of the fire; and the quantity of tires involved, to the extent known.

- (b) *Priority 2: Remove all whole and partially burned tires as soon as possible to reduce the possibility of additional fires. Partially burnt tires shall be disposed of as solid waste. Whole tires with melted or charred surfaces and partially burnt tires shall not be used in civil engineering projects or disposed of in a scrap tire monofill or monocell per ASTM, 'Standard Practice for Use of Scrap Tires in Civil Engineering Applications,' (D6270-98) (www.astm.org) paragraph 6.10.2: 'In no case shall the tire shreds contain the remains of tires that have been subjected to a fire because the heat of a fire may liberate liquid petroleum products from the tire that could create a fire hazard when the shreds are placed in a fill.' Whole tires that can not be recycled due to exposure to high temperatures shall be disposed of as solid waste.*
 - (c) *Priority 3: Containerize all visible fire residue to avoid further migration of contaminants by wind and precipitation.*
 - (d) *Priority 4: Characterize the containerized fire residual to determine if the material meets the definition of a hazardous waste, as defined in Chapters 3745-51 and 3745-52 of the Administrative Code.*
 - (e) *Priority 5: Remove all containerized fire residue from the site or facility and dispose of this residue in a licensed sanitary landfill if characterized as a solid waste; or manage and dispose in accordance with applicable state and federal laws."*
18. **OAC Rule 3745-27-79(C)(2)(a)** which states in pertinent part, "[t]he actions described in paragraphs (C)(1)(b), (C)(1)(c), (C)(1)(d), and (C)(1)(e) of this rule shall be completed within ninety days at any site or facility where less than ten thousand passenger tire equivalents (PTEs) are involved in a fire..."

In order to attain compliance with the Rules, you must immediately take action to abate the nuisance, public health, safety and fire hazard. All scrap tires must be removed by contracting with an approved scrap tire transporter, registered with Ohio EPA, and properly disposed of at a licensed scrap tire facility. Please provide Ohio EPA with receipts from the scrap tire facility indicating weight or volume of the waste disposed.

Please notify Ohio EPA in writing, within 15 days of your receipt of this letter, of the steps you are currently taking or have taken to comply with the violations cited in this letter.

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Failure to comply with the above requirements may result in escalated enforcement action being taken by this Agency.

If you have any question regarding this letter, please feel free to contact me at (330) 963-1103 or at joshua.adams@epa.state.oh.us.

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 Entity from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or 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.

Sincerely,



Joshua Adams, R.S.
Environmental Specialist
Division of Solid & Infectious Waste Management

JA:cl

cc: City of Youngstown Health Department
Lt. Fraiser, Youngstown Fire Department
Matt Boyer, DSIWM-CO
Bob Large, DSIWM-CO
Robin Nichols, Legal
File: [Sowers/County/Youngstown/GEN/50]

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PS Form 3800, August 2006 See Reverse for Instructions

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1. Article Addressed to:

Estate of Max Davis
 1579 West State Highway 366
 Safford, Arizona 85546

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