



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

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

Re: Scrap Tires
Erie County

June 12, 2007

CERTIFIED MAIL

Mr. Mike Protzman
1636 Hayes Avenue
Sandusky, Ohio 44870

Mr. Chester Wisenbarger
1636 Hayes Avenue
Sandusky, Ohio 44870

Dear Messrs. Protzman and Wisenbarger:

On May 10, 2007, the Ohio Environmental Protection Agency (Ohio EPA) conducted an inspection of the property located at 1636 N. Depot St/Hayes Ave., Sandusky, Ohio (property). The purpose of the inspection was to determine compliance with Ohio's scrap tire rules. Ohio EPA was made aware of the scrap tires accumulated at the property on April 19, 2007, by the City of Sandusky. Photographs were submitted to Ohio EPA showing numerous scrap tires on the property. Mr. David Ridenour was present at the time of inspection. I, along with Mary Ann Miller, represented Ohio EPA during the inspection and Mary Ann Leone and Carrie Handy represented the City of Sandusky.

During the inspection Ohio EPA observed approximately 30-50 scrap tires on-site. However, the photos submitted to Ohio EPA indicate that a significant amount of tires existed on the property as of April 18, 2007. Mr. Ridenour stated that Mr. Protzman, the property renter, had recently cleaned up the pile of scrap tires and disposed of them at a local Motor Vehicle Salvage Dealer (MVSD). Mr. Ridenour further stated that the tires had been transported by Mr. Protzman in a van truck. Mr. Ridenour stated that approximately 1,000 scrap tires had been taken to the unnamed MVSD.

On June 8, 2007, Ohio EPA made a return visit to the property. Mr. Protzman was present during this visit. When asked about the disposal location of the scrap tires Mr. Protzman stated that he had a friend take care of the tires. Mr. Protzman stated he would acquire the necessary information on disposal of the scrap tires and call Ohio EPA with this information.

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On June 11, 2007, Ohio EPA contacted Mr. Wisenbarger, the owner of the property, by phone to discuss the disposal of the scrap tires. Mr. Wisenbarger stated that some of the tires were taken to his family farm and some were taken to his private storage building in Port Clinton, Ohio. He further stated that the remaining tires removed from the facility were handled by Mr. Protzman.

Scrap tires are considered solid waste as defined by Ohio Administrative Code (OAC) Rule 3745-27-01(S)(24) and must be handled in accordance to the rules within OAC Rule Chapters 3745-27. The accumulation of scrap tires on this property, as documented in the photos taken by the City of Sandusky, constitutes open dumping, as defined by OAC Rule 3745-27-01(O)(4). Open Dumping means the following (in pertinent part): "...the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27, 3745-29, 3745-30, and 3745-37 of the Administrative Code."

OAC Rule 3745-27-05(C) states: "No person shall conduct, permit, or allow open dumping."

Ohio Revised Code (ORC) 3734.03 states in part: "No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection..."

ORC 3734.02(C) states in part: "...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 and receiving a permit issued by the director..."

ORC 3734.05(A) states in part: "...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..."

Open dumping of the scrap tires on this property is a violation of OAC Rule 3745-27-05(C) and ORC 3734.02(C), 3734.03, and 3734.05(A).

OAC Rule 3745-27-54 establishes scrap tire transporting requirements for entities that transport more than 10 tires in a single load. OAC Rule 3745-27-54(A)(1) states that, "...no person shall transport scrap tires in the state of Ohio, without first obtaining an annual registration certificate." Transporting more than 10 scrap tires in a single load without obtaining a transporters' registration, is a violation of OAC Rule 3745-27-54(A)(1).

Furthermore, please be advised that OAC Rule 3745-27-60, which establishes scrap tire storage requirements for entities who are not registered as a scrap tire facility, will apply to your facility when scrap tires exist on your property.

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However, OAC Rule 3745-27-03(A)(2) states that, "Chapters 3745-27 and 3745-37 of the Administrative Code shall not apply to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that...causes a nuisance, a hazard to public health or safety, or fire hazard." Since the number of scrap tires that were on-site during the inspection was less than 100, the owner/operator may qualify for this exemption if the tires are stored in a manner that does not cause a nuisance, a hazard to public health or safety, or fire hazard.

Please provide a written response to this correspondence within fourteen (14) days of receipt with the disposal location of the scrap tires. Failure to identify where the scrap tires were disposed may lead to escalated enforcement actions.

This correspondence addressed specific observations only for the areas of the property that were inspected. Nothing present in, nor absent from this correspondence is intended to mean that no other violations existed at the property at the time of inspection.

Compliance with the requirements outlined in this letter, or the solid and infectious waste provisions contained in the Ohio Revised Code Chapter 3734 and the rules promulgated thereunder, does not relieve you from your obligations to comply with other applicable state and federal laws and regulations.

If you should have any questions please contact me at (419) 373-3079.

Sincerely,



Jeremy Scoles, S.I.T., CHMM
Environmental Specialist
Division of Solid and Infectious Waste Management

/l/r

pc: Mary Ann Leone, Erie County Code Enforcement
Rick Hassinger, SIU-NWDO
~~File: Erie County, -Tires~~

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